

EXHIBIT P

Dennis Lormel
12/16/2014

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4

5 LIFE FOR RELIEF & DEVELOPMENT,
6 a Foreign Not-For-Profit
7 Organization,
8 Plaintiff,

9 vs.

Case No. 2:12-13550-CV

10 Hon. Denise Page Hood

11 BANK OF AMERICA, N.A.,
12 a national banking association,
13 Defendant.

14 _____/

15 PAGE 1 TO 169
16

17 The Deposition of DENNIS LORMEL
18 Taken at 1901 St. Antoine Street, 6th Floor
19 Detroit, Michigan
20 Commencing at 9:31 a.m.
21 Tuesday, December 16, 2014
22 Before Mary Oppenheim, CSR-5186
23
24
25

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21 Mohammed Alomari
22 Larissa Bergin
23 Michael Kaszubski
24
25

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4 Life's Corporate Compliance Plan
5 DEPOSITION EXHIBIT NO. 8 117
6 Life's Find Transactions Report for 3/1/2011
7 to 6/30/12
8 DEPOSITION EXHIBIT NO. 9 118
9 DML Associates 12/13/14 report
10 DEPOSITION EXHIBIT NO. 10 120
11 ReGroup Advisors' 12/1/12 letter to Life for Relief
12 DEPOSITION EXHIBIT NO. 11 120
13 ReGroup Advisors' 4/28/14 letter to Life for Relief
14
15 (Exhibits attached.)
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1 Detroit, Michigan
2 Tuesday, December 16, 2014
3 9:31 a.m.
4 DENNIS LORMEL,
5 was thereupon called as a witness herein, and after
6 having been first duly sworn to tell the truth, the
7 whole truth and nothing but the truth, was examined and
8 testified as follows:
9 MR. AKEEL: Good morning. My name is Shereef
10 Akeel and I represent the Plaintiff, Life For Relief &
11 Development, in a case currently pending in the United
12 States District Court before the Honorable Denise Page
13 Hood, versus Bank of America. This morning we're here
14 to take the deposition of Mr. Dennis Lormel, pursuant to
15 proper Notice and the applicable Federal Court Rules.
16 Good morning, sir.
17 THE WITNESS: Good morning.
18 MR. AKEEL: I am pronouncing your name
19 properly?
20 THE WITNESS: Close enough.
21 MR. AKEEL: How do you pronounce it?
22 THE WITNESS: Lormel.
23 MR. AKEEL: Mr. Lormel, I'm sure you have
24 taken depositions before, or have you?
25 THE WITNESS: Yes.

2 (Pages 2 to 5)

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1 MR. AKEEL: You know the drill. I'm going to
2 ask you a series of questions. If you can, answer them
3 to the best of your ability. If there's a question you
4 don't understand, please state so and I'll gladly
5 rephrase it for you. Please provide a verbal response
6 to each question so the court reporter can exactly
7 write -- so she can accurately write exactly what you
8 intended to state.
9 THE WITNESS: Yes.
10 MR. AKEEL: Please let me finish each
11 question before you proceed to answer for the sake
12 clarity, so when we look at the transcript we will know
13 exactly what you're responding to. There may be times
14 during the deposition where you need to take a break.
15 That's fine. The only thing I would ask is if there's a
16 pending question, we can take the answer and then we can
17 proceed to adjourn. There may be times, as you know
18 from yesterday during the deposition, where the attorney
19 that's sitting next to you may place an objection on the
20 record. Unless for some reason he states for you not to
21 answer, please go ahead and answer. So don't get
22 startled, "What do I do?"
23 EXAMINATION BY MR. AKEEL:
24 Q. Now, you indicated that you've taken depositions before.
25 Approximately how many?

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1 A. I've taken three depositions since I've been a
2 consultant. Back in my law enforcement days I've done a
3 number of depositions and affidavits. I couldn't tell
4 you at this time how many, but since being a consultant
5 this will be my fourth.
6 Q. As I understand it, you've kind of broke it out where in
7 the law enforcement days you had a certain set of
8 depositions and in your new civil life you've had three
9 depositions?
10 A. Right.
11 Q. With respect to the three depositions -- I don't want to
12 know anything if it's a personal nature, but with
13 respect to your consultation -- in the capacity of being
14 a consultant, what was the subject matter of the
15 depositions, just briefly, the cases?
16 A. They were all focused on money-laundering or
17 anti-money-laundering and they involved financial
18 institutions, or non-bank financial institution in one
19 case.
20 Q. Where were the cases?
21 A. One was in California, in Irvine, and actually in that
22 case I actually testified following the deposition.
23 That was last December.
24 Q. Do you remember the name of the case?
25 A. In my statement is the court number -- case number.

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1 Q. Okay.
2 A. Yeah, it was --
3 Q. You mean it's in your resume?
4 A. No, no, it's in the written statement.
5 MR. AKEEL: I'll mark this since we will be
6 referring to it.
7 (Whereupon Deposition Exhibit No. 1
8 was marked for identification.)
9 Q. (By Mr. Akeel): Mr. Lormel, I've given you what's been
10 marked as Exhibit 1. You said there's a reference in
11 there regarding the case you testified to. If you
12 could, just direct us to which page.
13 A. Prior testimony, page three, the last paragraph under
14 Previous Testimony. The case number was EDCV 12-016404.
15 Q. In any of the -- well, you said there were three, so
16 that's one of them. What were the other two?
17 A. There was a case in Birmingham in Federal Court down
18 there and that involved a bank and industry standards
19 for money-laundering best practices.
20 Q. Do you remember the name of the case?
21 A. It involved Regions Bank. I don't recall who the
22 plaintiff was.
23 Q. Regions?
24 A. Regions.
25 Q. What year was that, about, approximately?

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1 A. That started I believe in 2012.
2 Q. What's the outcome of the case?
3 A. They settled.
4 Q. The plaintiff settled?
5 A. Yes.
6 Q. Do you know what the settlement was?
7 A. No, I have no idea.
8 Q. What's the third one?
9 A. Let's see. What was that one? Give me a second here.
10 Okay. It involved another Bank of America case.
11 Q. Were you the expert for Bank of America?
12 A. Yes.
13 Q. And what year was that?
14 A. That was 2012 and I don't know what the resolution is.
15 It may still be pending.
16 Q. What's the nature of the case? What's the allegation?
17 A. They were dealing with a money service -- a company that
18 was technically a money services business and that
19 company and one of their clients sued Bank of America
20 after they had settled -- after that company settled
21 with the government. They were not registered as a
22 money services business as they should have been and
23 basically they blamed Bank of America for not informing
24 them that they should have been registered.
25 Q. What year was that case?

3 (Pages 6 to 9)

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1 A. It started in 2012.
2 Q. Is it still pending?
3 A. I'm not sure. I believe so.
4 Q. Do you know which state?
5 A. It would have been Charlotte, North Carolina.
6 Q. And who is the name of the plaintiff?
7 A. The name of the company -- I just had it on the top of
8 my head, sorry. Metropolitan is the name of the
9 company.
10 Q. And who is the name -- what's the name of the owner of
11 the company?
12 A. I don't recall.
13 Q. Is he of Arab ethnicity?
14 A. No, I don't believe so.
15 Q. Is he Caucasian?
16 A. I don't know, but I don't believe so.
17 Q. What do you think he is?
18 A. I thought he was Latin American.
19 Q. And what's the allegation that's being made by the
20 individual plaintiff in that case in Charlotte, North
21 Carolina?
22 A. Again, the basic allegation was that that was a money
23 services business that should have been licensed and
24 registered with FinCEN and the state, and they weren't.
25 And they and a client -- I think it's the client in

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1 A. The side that I was testifying for, that I had written
2 the report for, was a business that did third-party
3 processing and they were having problems with state
4 regulators and so I had written a report for the state
5 regulators -- I mean, to provide to the state
6 regulators.
7 Q. So you wrote it for the business?
8 A. Yes.
9 Q. Do you know what state that is?
10 A. I did the case in Washington, D.C. I believe that their
11 client was in the state of Washington. I'm not
12 positive. I believe the case was being heard in
13 District Court in the District of Columbia.
14 Q. Do you remember the name of the case?
15 A. Not off the top of my head as I'm sitting here.
16 Q. Have you ever been asked to provide any expert opinion
17 regarding nonprofit organizations as a consultant?
18 A. I've had another case where I've been retained that
19 involved a non-profit -- or a group of non-profits and
20 some Islamic principals.
21 Q. What case? Please share that with us.
22 A. It's referred to as the Herndon Charities in Herndon,
23 Virginia.
24 Q. When were you retained?
25 A. That would have been in 2004.

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1 particular sued Bank of America for not having informed
2 them that they had the responsibility to be licensed and
3 registered.
4 Q. Did he make any claims of discrimination?
5 A. No.
6 Q. Do you know who the attorney is on the plaintiff's side?
7 A. As I'm sitting here, no.
8 Q. Have you given testimony in that case?
9 A. No.
10 Q. So this case is in 2012. You don't know the name of the
11 plaintiff?
12 A. Not off the top of my head, no.
13 Q. You don't know the name of the company?
14 A. Metropolitan. I already told you that.
15 Q. You said that. And they've settled with Metropolitan,
16 you said?
17 A. The law firm never told me, so I haven't followed up.
18 Q. Besides these three, any other depositions that you've
19 been involved in as a consultant?
20 A. Not a deposition, but a statement that got filed in
21 court.
22 Q. And what case is that?
23 A. I don't recall the name off the top of my head. It was
24 about 2010.
25 Q. And what's the nature of the case?

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1 Q. And what happened there?
2 A. It was a complex situation. You had a criminal case and
3 you had a civil case and the two principals -- I believe
4 they had been indicted in the Eastern District of
5 Virginia and there were related charities under the
6 umbrella of the SAAR Foundation, S-A-A-R.
7 Q. What does that stand for?
8 A. I'm not sure what the acronym stands for.
9 Q. Who were you retained by?
10 A. By the two principals and SAAR Foundation.
11 Q. And who were they?
12 A. It was Dr. Yaqub Mirza, and the second principal I don't
13 recall off the top of my head. It started with a B.
14 Dr. Berzingi.
15 Q. What was your role in that? What were you asked to do?
16 A. Initially it dealt with the ongoing criminal
17 investigation and it was to act as expert consultant
18 working with the defense lawyers for the potential
19 prosecution, in dealing with the prosecution.
20 Q. This was back in 2005?
21 A. It went on for quite a while.
22 Q. At that time what was your normal employment?
23 A. I was a consultant.
24 Q. You were a consultant back in 2005?
25 A. Yes.

4 (Pages 10 to 13)

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1 Q. Were you ever retained by anyone to render an expert
2 opinion regarding the operation of a charity or a
3 non-profit organization?
4 A. The operation itself, no.
5 Q. Are you aware of the term "charity navigator"? Do you
6 know what that means?
7 A. No.
8 Q. Are you aware of an entity by the name of Interaction?
9 A. No.
10 Q. Are you aware of a rating organization out there that
11 rates charities?
12 A. I know that there are some. I certainly know -- I was
13 going to -- for instance, United Kingdom, I'm familiar
14 with what goes on there. In the U.S., I don't know what
15 agency would do that. I know that the Treasury
16 Department and IRS to a degree certainly have interest
17 in charities; IRS with the 990s, Treasury, especially
18 after 9/11, their office of Terrorist Finance and
19 Financial Crimes.
20 Q. Have you engaged in any efforts to do research for Life
21 For Relief & Development?
22 A. Yes, I looked at their website.
23 Q. Besides their website, did you do anything else?
24 A. No.
25 Q. When were you retained in this case?

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1 part of your opinion was also to determine whether the
2 bank can reopen the account?
3 A. Yes, sorry.
4 Q. So do I have a correct understanding what was first was
5 to look at the bank's response?
6 A. Right.
7 Q. Second, did they act in compliance with industry
8 standards?
9 A. Right.
10 Q. And then the third purpose was to determine if the bank
11 accounts can be reopened?
12 A. Or give my opinion on that.
13 Q. Right.
14 A. I have no bearing on whether or not Bank of America
15 opens that account.
16 Q. I understand. I'm going by your report. There's a
17 section in there you --
18 A. Right.
19 Q. How much have you been paid so far in this case?
20 A. Nothing.
21 Q. What's your hourly fee in this case that you're going to
22 charge the law firm that retained you?
23 A. 350 an hour.
24 Q. Have you asked for a retainer upfront?
25 A. No.

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1 A. I was first contacted in October. I think it was
2 October 8.
3 Q. And who were you contacted by?
4 A. Mr. Rodes.
5 Q. Before being contacted by Mr. Rodes, did you ever know
6 of him before that?
7 A. No.
8 Q. Were you ever retained by McGuireWoods before that?
9 A. Yes.
10 Q. How many times?
11 A. Once.
12 Q. And that's the other Bank of America case?
13 A. Yeah, unrelated to this. In fact, it was McGuireWoods
14 in New York and I don't think Mr. Rodes even knew about
15 that engagement.
16 Q. And what was the purpose of your retention? What did he
17 tell you what was the reason for you to serve as an
18 expert?
19 A. It was to look at the bank's response, Bank of America;
20 did they act in compliance with industry standards in
21 dealing with Life.
22 Q. Anything else?
23 A. That was pretty much the idea, to see about industry
24 standards and the best practices.
25 Q. My understanding also -- we're going to go over it, but

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1 Q. What's your hourly fee for deposition?
2 A. The same, 350.
3 Q. Before we started today, what did you do to prepare for
4 today's deposition?
5 A. I pretty much just read over the statements.
6 Q. Did you speak with anybody else? Did you speak with
7 anyone at McGuireWoods regarding your deposition today?
8 A. Yes, I spoke with Mr. Rodes and Ms. Bergin.
9 Q. What was discussed?
10 A. Just the statement.
11 Q. Anything else?
12 A. No.
13 Q. You had an opportunity to sit yesterday in the
14 deposition of Mr. Mike Kaszubski, correct?
15 A. Yes.
16 Q. Before you had that opportunity, you had authored the
17 report which we have identified as Exhibit 1, correct?
18 A. Yes.
19 Q. If we can go, please, to page 18, your signature is
20 there, correct?
21 A. Yes, that's my signature.
22 Q. And you dated the report 12/14/2014?
23 A. Yes.
24 Q. In the last sentence there you say, "I reserve the right
25 to modify this report upon further review or any new

5 (Pages 14 to 17)



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1 information that comes to my attention." Do you see
2 that?
3 A. Yes.
4 Q. Now, going back to my question, you had the opportunity
5 to sit in the deposition of Mr. Mike Kaszubski, correct?
6 A. Yes.
7 Q. After hearing what he had to say yesterday, do you
8 believe that any part of this report could be changed?
9 A. My opinion is the same.
10 Q. Your opinion is the same?
11 A. Right.
12 Q. Is there something that has changed?
13 A. Not particularly.
14 Q. Are you aware of the COZONE -- references to COZONE that
15 Mr. Kaszubski --
16 A. COSO.
17 Q. COSO?
18 A. Yes.
19 Q. Are you aware of it?
20 A. Yes.
21 Q. What is it?
22 A. It's best practices for compliance.
23 Q. What does it entail?
24 A. Again, it sets out, which he articulated yesterday,
25 following a series of best practices and what compliance

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1 standards should be for policies and procedures.
2 Q. And who is the author of COSO?
3 A. It's a group. I don't recall what the acronym is. It's
4 council of statements or something. It's a council.
5 Q. Do you subscribe to the best practices that are adhered
6 to by COSO?
7 A. Yes.
8 Q. And you learned yesterday that Life For Relief &
9 Development has implemented the internal controls and
10 best practices that's laid out by COSO, correct?
11 A. Yes.
12 Q. You weren't aware of that before yesterday's deposition,
13 right?
14 A. Not specifically, but I was aware from reading his
15 reports that he was implementing policies and procedures
16 on compliance, and in that rebuttal statement I state
17 that in there, that -- if we can look at that for a
18 second, I can point to the exact language.
19 Basically what I said in there is that as
20 an entity, they're a high-risk entity for
21 money-laundering in the banking community, and by virtue
22 of them having established a compliance program and
23 especially the way he was describing it yesterday, that
24 certainly mitigates a lot of that risk, and certainly
25 you've got an inherent risk. Then you've got the

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1 mitigating factors or the control factors as he talked
2 about, but you still have residual risk after that.
3 Q. Are you aware of other charities that are banking with
4 Bank of America that are also providing humanitarian aid
5 in the same regions and areas as Life For Relief &
6 Development?
7 A. No.
8 Q. That has never been shared with you, that there's
9 another entity out there that's providing humanitarian
10 aid in the same region as Life For Relief & Development?
11 A. The only thing I saw was the reference to the FBI agent,
12 again, in the report, who talked about was that Syria
13 Defense, and other than that, that's all I'm aware of.
14 Q. Are you aware that that entity is still banking with
15 Bank of America?
16 A. Not specifically, no.
17 Q. Are you aware of other entities that are banking with
18 Bank of America that are providing -- or other NGOs that
19 are banking with Bank of America and are providing
20 humanitarian aid in the same region as Life for Relief &
21 Development?
22 A. No.
23 Q. You indicated earlier that now that you know that COSO
24 internal controls are in place that it does mitigate or
25 reduce the inherent risk. Based on that statement,

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1 would that change your opinion for Bank of America to
2 consider opening its account for Life For Relief?
3 A. No, because you still have the issues of the
4 transactional activity that was at play and the fact
5 that they maintain accounts at numerous banks. That
6 creates a risk for Bank of America.
7 Q. Let's assume this hypothetical, that all the accounts
8 will be in one bank.
9 A. Okay.
10 Q. And let's assume that the transactional activities were
11 addressed and they were all related to charity purposes,
12 okay? Let's assume that. That's my hypothetical.
13 A. Okay.
14 Q. Based on the two assumptions that I've given you, would
15 that change your opinion in allowing Life For Relief &
16 Development to bank with Bank of America?
17 MR. RODES: Objection. In the way that you
18 framed your question, it seems to exceed the scope of
19 his testimony as an expert. He's not testifying as a
20 representative of Bank of America.
21 MR. AKEEL: No, he's not. In Section L,
22 where he gives an opinion regarding the consideration to
23 open the Life For Relief bank account, I think I can
24 probe into that, the biases, and determine that.
25 MR. RODES: You just have to rephrase the

6 (Pages 18 to 21)

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1 question.
2 Q. (By Mr. Akeel): I'll go back and posit my hypothetical.
3 Assume that Life For Relief & Development has comfort
4 that its bank accounts won't be closed, they can put all
5 their accounts in one bank and it will be Bank of
6 America. That's one hypothetical, okay? Assume the
7 transactional activities that you had questions about
8 were all addressed and they are all charity corporate-
9 related, okay? So far so good?
10 A. Yes.
11 Q. And assume that you have the knowledge that COSO
12 internal controls are in place at Life For Relief &
13 Development, okay?
14 A. Yes.
15 Q. Based on what I have just posited to you, would you give
16 a recommendation that you don't -- that Bank of America
17 can open the account because the inherent risks are
18 acceptable and reasonable?
19 A. We have to look beyond that, possibly. Possibly,
20 because yes, the risk factors have been mitigated, but
21 you have other factors that need to be considered here,
22 too.
23 Q. What are they?
24 A. Well, what you're dealing with here are compliance
25 policies and procedures. You're not dealing with

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1 transactional activity. We're not talking about
2 money-laundering. What you've got to consider is the
3 account activity, how money goes into the account;
4 again, the sources and everything. I haven't heard one
5 word about any anti-money-laundering considerations,
6 training or the patterns of deposit activity. Those
7 things would all factor in there, the fact that they
8 operate in a high-risk zone the way they do, and I give
9 you guys credit. I think certainly in the areas of the
10 world that they operate in, we need humanitarian aid,
11 but what you showed me yesterday -- or what I listened
12 to yesterday during that deposition was all about
13 internal controls and policies and procedures. It had
14 nothing to do with money-laundering.
15 From a broader picture, I would have a
16 problem recommending unless I knew more about the
17 money-laundering procedures or the steps taken to
18 mitigate the potential money-laundering, and certainly
19 for terrorist financing in those regions, which I don't
20 see in it. In this report I mentioned that I did a very
21 limited due diligence check when I was checking the
22 Internet and I saw the reference to a case -- whatever
23 period it was, involving an individual that used to work
24 for them who was indicted and convicted for terrorist-
25 related charges. That to me is something that from a

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1 due diligence perspective I would have trouble with.
2 Q. Who are you referring to? Are you saying the person
3 that you're referring to in the report is Muthanna
4 Al-Hanooti?
5 A. Yes.
6 Q. Do you have knowledge he was employed with Life at that
7 time when he was indicted?
8 A. According to what I read he was.
9 Q. And where did you get your source from? Where did you
10 read?
11 A. I went out to Google and then I saw -- I think they're
12 referenced in here, a series of newspaper articles, one
13 being the Wall Street Journal, I think, mentioned it at
14 one point, but there was a specific newspaper article
15 that talked about that. I went on a website that I go
16 to frequently.
17 Q. What's the website?
18 A. The Investigative Project.
19 Q. Is that authored by Mr. Steve Emerson?
20 A. Yes.
21 Q. Are you a subscriber to The Investigative Project?
22 A. I receive it. I don't pay any subscription. I receive
23 it regularly, though. Let me rephrase. I get -- what I
24 receive from The Investigative Project are news clips.
25 They put together occasional news clips on terrorist

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1 finance, terrorism and money-laundering specifically. I
2 get that. I use that in my practice. That's stuff I
3 use for other business purposes. I go out to his
4 website because they have a lot of court cases and
5 things out there, historical documents.
6 MR. RODES: I'll point out on number 95 on
7 page 21 he references the indictment of Mr. Al-Hanooti.
8 MR. AKEEL: The document speaks for itself.
9 I'd like to mark this as Exhibit 2.
10 (Whereupon Deposition Exhibit No. 2
11 was marked for identification.)
12 Q. (By Mr. Akeel): Are you aware that the Lexus Nexus has
13 a program out there that provides powerful tools to see
14 who is on the terrorist watch list and to be able to
15 provide background information regarding entities that a
16 charity can deal with? Are you aware of it?
17 A. Yes.
18 Q. Have you consulted that?
19 A. With that particular, no.
20 Q. Have you ever consulted Lexus Nexus?
21 A. Yes.
22 Q. To do background checks?
23 A. Yes.
24 Q. Have you done that for Life For Relief?
25 A. No.

7 (Pages 22 to 25)

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1 Q. Why not?
2 A. I don't subscribe anymore. I used to subscribe to Lexus
3 Nexus so I would regularly go out and do that. I don't
4 do that now.
5 Q. Is Mr. Emerson a friend of yours?
6 A. I know him, yes.
7 Q. You guys are personal friends?
8 A. I'll say yes. We're more acquaintances than friends.
9 We know each other.
10 Q. You have a high respect for him?
11 A. I have respect for him. I have guarded respect for him.
12 Q. What do you mean "guarded"? You said guarded?
13 A. Yes.
14 Q. Why is that?
15 A. I think he's very committed. I think he's well-
16 intended, but I also think he's a bit biased.
17 Q. What do you mean by that?
18 A. I think he has an ethical bias.
19 Q. Can you expand on that, please?
20 A. At times I think his reporting is not as objective as it
21 should be.
22 Q. When you say he's biased, what do you mean? Who is he
23 biased against, Arabs?
24 MR. RODES: Calls for speculation, lacks
25 personal knowledge. He's not in Mr. Emerson's head.

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1 Q. (By Mr. Akeel): He's biased. What is he biased
2 against? Who is he biased against? You're under oath,
3 sir.
4 MR. RODES: Objection; lacks foundation. You
5 haven't established that he's actually shared those
6 thoughts with him.
7 Q. (By Mr. Akeel): From your perspective, who is he biased
8 against?
9 A. Pretty much organizations like Hezbollah, Hamas and
10 people he believes are associated with them.
11 Q. Do you believe he is biased towards persons of Arabic
12 origin?
13 MR. RODES: Same objections.
14 THE WITNESS: Again, when it comes to certain
15 organizations, yes.
16 Q. (By Mr. Akeel): Do you believe he is biased towards
17 persons who subscribe to the religion of Islam?
18 MR. RODES: Same objections.
19 Q. (By Mr. Akeel): Muslims?
20 A. That's a hard question to answer because again, I think
21 it's more driven by where he sees associations with
22 certain organizations, and my point was that I think he
23 lacks objectivity sometimes when it comes to that.
24 Q. Are you familiar with what I'm going to give you? Have
25 you seen Exhibit 2 before, where it says, "About The

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1 Investigative Project on Terrorism"? Have you seen this
2 before?
3 A. No, I haven't.
4 Q. If you look down, you see your statement there?
5 A. Yes.
6 Q. "Steve Emerson and The Investigative Project do a
7 terrific job and IP is a good repository for
8 information."
9 A. Yep.
10 Q. "My experience with IP is that they have been very
11 methodical and very detail-oriented in developing their
12 information. They can look at an organization,
13 particularly a complex organization, and through public
14 source information identify potential terrorist threats
15 and possibly links to terrorism. Dennis Lormel, Former
16 Chief of Terrorist Financing Operations at the FBI." Do
17 you see that?
18 A. Yes.
19 Q. Do you agree you made that statement?
20 A. I certainly did.
21 Q. Are you aware that there's a lot of criticism about
22 Mr. Emerson, that he's created a lot of Arab-American
23 fear, hysteria -- where he has created hysteria among
24 mainstream Americans towards persons of Arab origins?
25 Are you aware of that?

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1 MR. RODES: Vague as to causing hysteria.
2 Q. (By Mr. Akeel): Go on.
3 A. No, but I know that we're going back to -- where I take
4 a step back is I know that he is very vocally outspoken
5 against CAIR.
6 Q. CAIR is the acronym for Council of American Islamic
7 Relations?
8 A. Right.
9 Q. Now, besides using The Investigative Project as a
10 resource for your information, what other entities that
11 you use as a resource for information about
12 Arab-Americans or Muslims?
13 A. A number. I use the Mid East -- it's not the Mid East.
14 Washington Institute for -- I think it's Near East
15 Policy. I use a number of those types of think tanks.
16 Q. It's called Washington Institute for Near East Policy?
17 A. Something to that effect. Washington Institute, you
18 will find it.
19 Q. Is that run by Daniel Pipes? Do you know Daniel Pipes?
20 A. No, I don't believe it is. I don't know if it is or
21 isn't.
22 Q. What else?
23 A. There are a few of the think tanks I look at quite a
24 bit.
25 Q. What other think tanks?

8 (Pages 26 to 29)

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1 A. Off the top of my head I don't remember, but I look at
2 two or three.
3 Q. There's another reference that I've seen in your --
4 MilitantIslamMonitor.org?
5 A. The one time -- I've only looked at that one time and
6 that was when I was doing my research here and
7 references came up to the case I referenced.
8 Q. I understand. I'm looking at your Exhibit 1, and if I
9 look at your Exhibit 3, which is page -- if I look at
10 your Exhibit 1, it's titled, "Items Relied
11 Upon/Reference Manual." Do you see that?
12 A. Where is it? I'm sorry.
13 Q. That's on page 19.
14 A. Okay. Yes.
15 Q. If you look at item 92, you make a reference to
16 Military (sic) IslamMonitor.org. Do you see that?
17 A. Right.
18 Q. Are you a regular subscriber to --
19 A. I just answered --
20 Q. Let me finish, please. You said you went to the website
21 one time, but are you a subscriber? Are you a member in
22 the MilitaryIslam (sic).org.
23 A. No. Can we stop for a second? I'd like to ask to go
24 back. We never really finished a question you left
25 open-ended and you started asking another question.

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1 Q. I get to ask the questions, sir, and I get to determine
2 how the deposition goes. If your attorney will want to
3 ask a question about it, that's fine.
4 A. Okay.
5 Q. I want to go back to Military (sic) IslamMonitor.org.
6 It seems to me that that's a reference or an item you
7 relied on in forming your opinion, correct? You
8 referenced it.
9 A. It was one item that I went out and picked up on there.
10 As I mentioned, I've been on that website a total of one
11 time.
12 Q. But in forming your opinion you draw on sources to
13 advocate a position that you hold, correct?
14 A. Yes.
15 MR. AKEEL: I'd like to mark this as
16 Exhibit 3.
17 MR. RODES: Can we take a one-minute break
18 here?
19 MR. AKEEL: Sure.
20 (Whereupon Deposition Exhibit No. 3
21 was marked for identification.)
22 MR. AKEEL: We're back on the record.
23 Q. (By Mr. Akeel): Sir, you understand you're still under
24 oath?
25 A. Yes.

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1 Q. What was discussed outside in the hall?
2 A. We just -- Counsel asked me about my concern --
3 MR. RODES: You can answer that question.
4 THE WITNESS: My concern about the question
5 that I wanted to go back and answer.
6 Q. (By Mr. Akeel): What else?
7 A. That was it.
8 Q. What was that question?
9 A. You had asked me about Steve Emerson. You had given me
10 Exhibit No. 2 and you pointed out my quote in here where
11 I said Steve Emerson and The Investigative Project do a
12 really terrific job and the IP is good repository for
13 information.
14 My experience with the IP is that they have
15 been very methodical and very detail-oriented in
16 developing their information. They can look at an
17 organization, particularly a complex organization, and
18 through public source information identify potential
19 terrorist threats and possible links to terrorism.
20 The reason I wanted to go back to address
21 this, you handed me this. This particular quote goes
22 back to around 2005 or 2006, and at that time this was
23 very accurate. This was true. Since that time,
24 particularly in the last couple of years is when I said,
25 "You know what? Steve may not be as objective as he

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1 should be," but it still doesn't change the fact that
2 they do very good -- when they're on point, they do very
3 good work.
4 Q. That's why, sir, I gave you a softball in the beginning.
5 I'm asking you what you mean he's not biased anymore.
6 There's no trick questions here. When you say he's
7 biased today, I didn't get a clear answer. What do you
8 mean? If you want to tell me, what is he biased towards
9 today that you believe? I'm not going to his state of
10 mind, but what you believe.
11 A. And I answered that question.
12 Q. You said in organizations.
13 A. Yeah. I said he was particularly biased against
14 organizations like Hamas, Hezbollah. He carries that to
15 al-Qaeda, but in his dealings with that -- and you can
16 bring in the Muslim Brotherhood. And in my view he's
17 gone overboard as he looks at more people as being
18 associated perhaps with Brotherhood than they really
19 are, but that doesn't -- I don't know -- and I don't
20 know if he's absolutely biased or just, as I said he's
21 got those biases.
22 Q. Well, I'm going into the things that you're -- where
23 your name comes out and you refer to them. You refer to
24 them as some sort of authority in some capacity. I'd
25 like to talk about Exhibit 3, which says,

9 (Pages 30 to 33)

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1 "MilitantIslamMonitor.org." This is noted as footnote
2 92 in your report, which is Exhibit 1. Do you see that?
3 A. Yes.
4 Q. It says here -- I'm looking at the first page. I go to
5 their website and it says, "About Militant Islam
6 Monitor. The war on terror is World War IV. Welcome to
7 MilitantIslamMonitor.org. Our mission is to provide an
8 online resource documenting the activities and
9 identities of Islamist individuals and groups in the
10 United States and abroad." Do you see that?
11 A. No, I don't have it in front of me.
12 Q. You go to that website, that's what you see right
13 upfront, right?
14 A. Uh-huh.
15 Q. Do you remember seeing that?
16 A. No, I didn't look at that.
17 Q. You didn't see the very -- when you type in
18 MilitantIslamMonitor.org, you didn't see that as the
19 first page?
20 A. That wasn't what I was looking for, no.
21 Q. No. Sir, I'm asking you --
22 A. Yes, I saw that as the first page. I did not read this.
23 If I had read this, this would not be in the report.
24 Make no mistake about it, this would not be in the
25 report.

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1 Q. Well, let's look at the next one where it says -- maybe
2 perhaps this will refresh your recollection. It says,
3 "What is militant Islam? Militant Islam is a utopian
4 ideology inflated in the 20th century that attracts only
5 a portion of Muslims. 10 to 15 percent seek to gain
6 control of governments and is nakedly aggressive towards
7 all those who stand in its way no matter what their
8 faith, unnoticed by most westerners. Militant Islam has
9 unilaterally declared war on Europe and the United
10 States. The enemy in this war is not terrorism, but
11 Militant Islam. Dr. Daniel Pipes, Militant Islam
12 reaches America." Do you see that?
13 A. Yes.
14 Q. Do you remember reading that?
15 A. No. As I said, I did not read that.
16 Q. I'm asking if you remember reading that.
17 A. No, I didn't.
18 Q. Let's go to the next one. "After September 11, everyone
19 in America knows full well the power and persistence of
20 these militant radical groups. Is (sic) is a certainty
21 that the terrorists already living among us will
22 continue to pursue their destructive agenda. Steve
23 Emerson, American Jihad." Do you see that?
24 A. Yes.
25 Q. Do you remember reading that?

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1 A. No.
2 Q. Well, do you believe that Life For Relief & Development
3 is part of this network to take over the government?
4 A. Absolutely not.
5 Q. Let's go to the next page, page three. Just for the
6 sake of convenience, I put the numbers on the bottom
7 right. I went to the website to look for Life For
8 Relief because obviously you referred to
9 MilitantIslamMonitor.org, and it states, "Ghanim Al
10 Jumaily, director of al-Qaeda-linked charity Life For
11 Relief & Development, Saddam loyalist, appointed Iraqi
12 ambassador to Japan, worked as a NASA engineer." My
13 question is, sir, do you have any evidence that Life For
14 Relief & Development is linked to al-Qaeda?
15 A. No.
16 Q. Let's go to page six. It's again the website you relied
17 on and put in as a reference, MilitantIslamMonitor.org.
18 There's a reference to, "Obama's White House had
19 hundreds of visits from Muslim radicals." Do you see
20 number six?
21 A. Yes.
22 Q. Do you believe our president of the United States is
23 affiliated with radicals?
24 A. No.
25 MR. RODES: I'm going to object to this line

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1 of questioning and to the rest of the document in terms
2 of you have not established a foundation that he
3 actually looked at any of these pages or asked him what
4 pages he's looked at.
5 Q. (By Mr. Akeel): Do you remember seeing references to
6 the president of the United States linked to radicals?
7 A. No.
8 Q. Let's go to the next one, page eight, "No Arabs, no
9 terror." Do you see where it states that up top?
10 A. Yes.
11 Q. "Arab Muslim savages murder four, injure 13 in synagogue
12 attack using guns, axes and knives in Har Nof." Do you
13 remember seeing that article?
14 A. No.
15 Q. Let's go to the next one, page 10. In the same website
16 that you relied on, MilitantIslamMonitor.org, "They must
17 go. Arab terrorist murders three-month-old Jewish baby,
18 injures eight in car attack." Do you remember seeing
19 that in the website you relied on?
20 A. No.
21 Q. Let's go to page 12. "Arab 'Rock Terrorism' continues
22 to kill and injure Israelis daily." Did you see that
23 when you relied and made reference to
24 MilitantIslamMonitor.org?
25 A. No.

10 (Pages 34 to 37)

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1 Q. Let's go to page 13. "Lehave Group Tells Supermarket
2 Targeted by Terror - Stop hiring Arab Fifth Columnists."
3 Do you remember seeing that in the website that you
4 relied on, MilitantIslamMonitor.org?
5 A. No.
6 Q. Let's go the last one, 14. "Arabs Out! Israeli Arab
7 Muslims, You Take Smiling Selfies In Front of Jews
8 Wounded in Terrorist Attack." Do you remember seeing
9 that article when you relied on the website
10 MilitantIslamMonitor.org?
11 MR. RODES: Objection; assumes facts not in
12 evidence. You haven't established that he relied on any
13 of this.
14 MR. AKEEL: I'm asking a question.
15 MR. RODES: And I object to it.
16 THE WITNESS: No.
17 Q. (By Mr. Akeel): Are you aware that Life For Relief &
18 Development is run by Arab-Americans?
19 A. Yes.
20 Q. You're aware that Bank of America knew that?
21 A. Yes.
22 Q. And you knew that from the deposition, correct?
23 A. Which deposition?
24 Q. Of Ms. Marshall.
25 A. Yes.

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1 Q. Now, I understand -- I mean, you understand as an expert
2 I'm entitled to probe into your biases and prejudices?
3 You understand that?
4 A. Yes.
5 Q. Do you view the persons of Arabic origin -- now, you're
6 under oath, right? You know that?
7 A. (Nods head up and down.)
8 Q. Is that yes?
9 A. Yes, I know I'm under oath.
10 MR. RODES: Asked and answered.
11 MR. AKEEL: I just want to make sure.
12 MR. RODES: How many times are you going to
13 ask him that?
14 Q. (By Mr. Akeel): Do you have some internal belief or
15 some kind of -- I don't know if it's a belief or
16 settlement -- or sentiment or philosophy that persons of
17 Arabic origin tend to be a more violent or more
18 aggressive or less peaceful?
19 A. Absolutely not.
20 Q. My understanding is that you were part -- there was a
21 period of time where you worked with NYPD; is that true?
22 Were you working with the police force in New York?
23 A. Yes. I was an FBI supervisor and New York detectives
24 worked for me. I started a task force involving the New
25 York police and U.S. Secret Service.

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1 Q. Did the task force include training informants to
2 penetrate the Arab and Muslim-American community?
3 A. No. We were working financial crimes, bank fraud. We
4 were going after bank fraud cases. Had absolutely
5 nothing to do with ethnicity.
6 Q. Were you aware of the controversy regarding NYPD,
7 regarding their aggressive tactics towards the Arab and
8 Muslim-American community in New York?
9 A. Yes, but let's put this in context.
10 Q. I'm asking if you're aware.
11 A. Yes.
12 Q. What are you aware of?
13 A. I'm aware that the New York Police Department started an
14 intelligence or counter-terrorism division, and as part
15 of that initiative they initiated an intelligence
16 program to go out and gain intelligence on the Islamic
17 community.
18 Q. And were you involved or did you play a role in any way
19 during that program?
20 A. No.
21 Q. Did you provide any consultation or any advice during
22 the formation of that program?
23 A. No. Let me qualify something.
24 Q. Sure.
25 A. When they first established the intelligence branch or

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1 the counter-terrorism branch at the New York PD, I was
2 still in the FBI and some of their high-ranking
3 officials came down to FBI headquarters and I did
4 provide a briefing to them on terrorist finance, but
5 that's the extent of any involvement I've ever had with
6 them.
7 Q. Who is "them"? Who did you provide the briefing to?
8 A. The captain for the New York Police Department. I don't
9 recall his name.
10 Q. Did you provide any written material? Was it a written
11 presentation?
12 A. No, it was just a meeting and briefing.
13 Q. How many meetings were there?
14 A. That was the one meeting I had, just one.
15 Q. Based on that meeting, did they -- do you know if they
16 implemented any -- did you provide any recommendations
17 in that meeting?
18 A. In terms of terrorist financing, yes, but they didn't do
19 anything. When it came to terrorist financing,
20 everybody wanted to chase bullets and bombs and not go
21 after money, so they probably didn't do anything with
22 that, anything I recommended.
23 Q. So you don't know with certainty if they did or didn't?
24 A. I would say with certainty they didn't.
25 Q. Back to my question regarding Lexus Nexus, were you

11 (Pages 38 to 41)

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1 aware that Life For Relief & Development uses Lexus
2 Nexus to check for potential threats and potential
3 terrorists?
4 A. No.
5 Q. You learned that yesterday, right? Did you learn that?
6 A. I don't recall hearing that yesterday.
7 Q. Did you learn it from the deposition of Mr. Alomari?
8 You read it, right?
9 A. Yes.
10 Q. Do you remember reading that part?
11 A. No, I'm sorry, I don't. I don't discount it, that's for
12 sure.
13 Q. Well, knowing that, would that increase your confidence
14 that Life For Relief & Development is engaging in all
15 efforts to make sure that it reduces any -- that
16 inherent risk, given that it provides humanitarian aid
17 in areas where humanitarian suffering is in dire
18 straights?
19 A. I think that's a good step, yeah.
20 Q. Would that change your opinion or would that increase
21 your confidence in making a recommendation to Bank of
22 America that, "Hey, you may want to look at Life For
23 Relief and open its bank accounts because they are
24 addressing the inherent risks"?
25 A. It would help my comfort level, yes.

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1 Q. During your tenure with the FBI, did you ever prosecute
2 Arab-Americans?
3 A. If we put this in a proper context, as an FBI agent I
4 didn't prosecute anybody. I investigated. The
5 prosecuting attorneys, either the U.S. Attorney's office
6 or the Department of Justice, prosecuted.
7 Q. Did you aid in the prosecution of Arab-Americans?
8 A. Yes.
9 Q. Approximately how many?
10 A. That's a difficult question because I was a section
11 chief responsible for overall a lot of cases. It's hard
12 to quantify in terms, but certainly I had a hand and my
13 people had a hand in the Holy Land Foundation,
14 Benevolence International, cases like that.
15 Q. Kind Hearts in Ohio?
16 A. Kind Hearts went down I think after I retired, but
17 certainly investigating them, yes.
18 Q. So we have three?
19 A. At least, and then you have individuals. You've got the
20 9/11 hijackers. I certainly was involved to a very
21 large extent with that. Zacarias Moussaoui would have
22 been in that, a guy named Ali Alomari.
23 Q. Ali Alomari?
24 A. Alomari.
25 Q. How do you spell the last name?

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1 A. I think it was A-l-i-m-a-r-i (sic). I'm sure there were
2 others. Those come to my mind. I was not directly
3 involved, but I oversaw a lot of the investigative
4 activity that went on that would have led to those
5 people.
6 Q. Al-Baarat?
7 A. Yes.
8 Q. You were involved in that?
9 A. Yes.
10 Q. Any of the entities that you prosecuted were found
11 innocent or were they all guilty?
12 A. I think at the end of the day, Al-Baarat -- there was
13 never a prosecution of Al-Baarat. There was just, I
14 think, sanctions. There may have been some individuals
15 that were prosecuted in that case, but as an entity,
16 Al-Baarat, no.
17 Q. You're aware that there was a monolith that was written
18 and it was given to the September -- the 9/11 commission
19 in the Senate. You are aware of that?
20 A. Yes. In fact, if I may, I was interviewed extensively
21 for that.
22 Q. Were you aware of the findings there that they did not
23 find a scintilla of evidence of terrorist financing from
24 American Muslim or American Arab charities going
25 overseas? Are you aware of that finding?

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1 A. Yes.
2 Q. Now, do you know how they came up with that finding?
3 A. Some of the information they got from me.
4 Q. Is there any transcript that I can look at where I can
5 see where you state to the Senate panel that, "Through
6 our investigation, as a section chief in the FBI, we
7 could not find a scintilla of evidence of terrorist
8 financing from American Muslims or American Arab
9 charities"?
10 A. Well, let's put this in context.
11 Q. I'm just asking. Would I see it? Can I see a
12 transcript?
13 A. I don't know about a transcript because I didn't have
14 that. The 9/11 commission would have that, but my name
15 is footnoted in that monolith.
16 Q. Now, that was a commission panel --- that was a
17 recommendation that was made to the Senate, correct?
18 A. Recommendation made -- I don't understand the question.
19 Q. I will withdraw that question. After that finding by
20 the commission that there was not a scintilla of
21 evidence of terrorist financing from Arab or Muslim
22 charities, after you made that statement, has that
23 statement -- do you still agree with that finding as you
24 sit here today?
25 A. I think you mischaracterized my answer before, because

12 (Pages 42 to 45)

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1 you're saying I made a statement.
2 Q. I didn't mean to do that. Let me ask the question.
3 After the finding that was made in the monolith where it
4 was determined that there was not a scintilla of
5 evidence of terrorist financing from American or Muslim
6 charities going overseas, as you sit here today, do you
7 still agree with that finding?
8 A. No.
9 Q. Why not?
10 A. Holy Land Foundation was prosecuted. They were
11 prosecuted for providing material support. I don't
12 recall exactly what all of the circumstances were and I
13 believe that there were some other cases where monies
14 did go over, but by and large I do agree that -- and for
15 instance, if I may use an example here, the SAAR
16 Foundation, they were front and center right after I
17 think it was in 2003. Homeland Security investigations
18 went out and they executed search warrants at a number
19 of locations in Herndon, Virginia, that got national
20 attention. I think it was around March of 2002 or 2003.
21 I was dead set against that. I didn't believe the SAAR
22 Foundation to be funding terrorism and that's why a few
23 years after my retirement I wound up as a consultant to
24 them.
25 Q. So other than the Holy -- do you know with certainty as

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1 you sit here today that there was any finding made in
2 that case that there was any terrorist financing from a
3 charity in America going overseas?
4 A. I don't recall what the specific final -- there was a
5 prosecution. They were prosecuted for material support.
6 Q. Other than Holy Land, have you come across any American
7 charity -- or any Arab-American charity or Muslim
8 charity that engaged in terrorist financing?
9 A. Kind Hearts. Again, I don't recall the specifics, but
10 other than maybe that, no.
11 Q. Were you aware that the judge in the Kind Heart case
12 made a finding that its constitutional rights were
13 violated?
14 A. No, I wasn't aware of that.
15 Q. Do you have any evidence as you sit here today that Life
16 For Relief & Development has engaged in any terrorist
17 financing?
18 A. No.
19 Q. As you sit here today, do you have any evidence that
20 Life For Relief & Development has engaged in any --
21 where you confirmed it, in any money-laundering scams?
22 A. No.
23 Q. Do you view people with suspicion when you hear them
24 say, "Allah"?
25 A. No.

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1 Q. Do you know what that means?
2 A. Allah?
3 Q. I'm sorry? Yeah, Allah, A-I-I-a-h. Do you know what it
4 means?
5 A. Specifically, no. I know it's reverent is the way I
6 look at it. Allah, God.
7 Q. Do you equate Allah with God as we say God in English?
8 A. Yes.
9 Q. Do you view Allah as a separate deity?
10 A. No.
11 Q. I'd like to go over -- we can take a five-minute break
12 right now and then we'll come back and go over your
13 report.
14 (Break in proceedings.)
15 Q. (By Mr. Akeel): Sir, you understand you're still under
16 oath?
17 A. Yes.
18 Q. You know, I want to go into kind of your report, but I
19 want to get an understanding of the
20 anti-money-laundering procedures that you would expect
21 an organization to have. Can you please explain to me
22 what type of controls that should be in place, the best
23 practices to mitigate or to reduce the possibility of
24 money-laundering activities?
25 MR. RODES: I'm going to object to the extent

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1 it's outside the scope of the testimony for which he's
2 been designated.
3 MR. AKEEL: No. In his rebuttal he said
4 there aren't any -- he discusses it.
5 Q. (By Mr. Akeel): So I would like to know what
6 money-laundering controls that you believe an
7 organization should have.
8 MR. RODES: Same objection.
9 THE WITNESS: When you say organization, are
10 you talking about Life?
11 Q. (By Mr. Akeel): Any.
12 A. Well, they're very different. What are you talking
13 about?
14 Q. Let's talk about an organization that has a bank account
15 with Bank of America, a corporate -- a profit
16 organization or not-for-profit. Unless you see a
17 distinction in those two, please define them.
18 A. Start out here: Banks are required -- or financial
19 institutions or companies that have been designated
20 financial institutions are required to have an
21 anti-money-laundering program. Companies like Life or
22 other companies that are not regulated that way aren't
23 required to have an anti-money-laundering program.
24 Q. What is -- go on.
25 A. In response to your question and in response to looking

13 (Pages 46 to 49)

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1 at those reports, those reports talk about policies and
2 procedures, compliance controls. They didn't address
3 money-laundering. That was my point.
4 Q. What controls should be -- that you would expect to see
5 to address money-laundering?
6 A. A couple of things here. You have to look at money
7 coming in, money going out. In terms of money coming
8 in, is it legitimate? So what are the sources of your
9 funds? And then again from the organizational
10 standpoint, you've got -- when you have checks or money
11 wires that are coming in or whatever, that's simple; it
12 goes right to the bank. When you're dealing with cash,
13 and yesterday we heard about the procedures and the
14 controls on what you're doing with cash, but what kind
15 of training, what kind of mechanisms do you have in
16 place or the controls that you have in place in terms of
17 putting that money into a financial institution? And
18 are you fully aware of the ramifications of certain
19 types of transactional activities? That's one.
20 And then it's the money going out. Again, is
21 it going for the purposes that it's intended to be? If
22 I take a step back and I want to look at you from a
23 standpoint of anti-money-laundering, what I'm going to
24 do is I'm going to look at your organization and I'm
25 going to say, "Is the activity I've seen flowing in and

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1 organization like Life.
2 A. Okay.
3 Q. So the wiring, there's adequate controls, right?
4 A. Yes.
5 Q. The second method of source is checks. Do we agree that
6 there's adequate controls there?
7 A. Yes.
8 Q. So the third item, and that's the issue, is the cash,
9 correct?
10 A. Yes.
11 Q. For an organization like Life, correct?
12 A. Yes.
13 Q. Do you have a threshold percentage in your mind when
14 you're approaching this issue here? Let's say I look at
15 the total amount of sources that come in an organization
16 like Life, let's say 100 million. In cash -- I'm just
17 giving you a hypothetical here, or an example. Of the
18 100 million, the cash that they collect is less than one
19 million. Let's say there's a one-percent makeup of the
20 funds that are coming in. Does that increase your
21 concern, lower your concern or does that play into your
22 consideration at all on whether that's an issue or not?
23 A. Well, again, you're speaking hypothetically?
24 Q. Yes.
25 A. Based on the hypothetical you just gave me, no.

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1 flowing out reasonable for that type of business?"
2 Q. Okay. So I'm just trying to be very specific about one
3 thing right now. Let's address regarding the
4 anti-money-laundering program, the sources first, and
5 then we will go to the uses. Let's talk about the
6 sources first.
7 You identify -- I mean, basically there's
8 three ways we know -- put aside like-kind exchanges, in-
9 kind donations, blankets, pillows. Do you believe
10 that's part of money-laundering as well?
11 A. Trade base money-laundering, it could be. In general,
12 yes. In terms of an entity like Life, no.
13 Q. So can we focus on cash with respect to sources when
14 we're looking at an anti-money-laundering program, okay,
15 in that context?
16 A. Okay.
17 Q. Now, wires, I think that's addressed because we know who
18 the identity of the person is; is that fair enough?
19 A. For the most part. Again, less of a problem like this,
20 but you always --
21 Q. Like Life?
22 A. Yes, but you always have a challenge understanding or
23 knowing what the actual source of the funds are. That's
24 an industry-wide problem.
25 Q. To narrow it more in scope, let's just talk about an

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1 Q. No what?
2 A. It wouldn't be. I wouldn't consider it that big of a
3 concern with the totality of the money you're talking
4 about. However, when you factor that with other
5 factors, then it could well be and would be a problem.
6 Q. I'm talking from a conceptual perspective right now.
7 Let's say \$100 million of sources come in. Let's say
8 the wires are 50 million and the checks that come in are
9 49 million, so we have one million left in cash. In
10 that context, that wouldn't be a concern, correct?
11 A. Probably correct, but it would possibly be a concern for
12 the manner in which it was deposited. If it was being
13 deposited into my bank, is there a consistent pattern?
14 Is there an inconsistent pattern? Are there patterns
15 that appear to be evading reporting requirements? Even
16 though you're dealing with a much more de minimus
17 amount, those things would be a concern. If all of the
18 banking was done with one bank, it probably would not be
19 a concern.
20 Q. I was going to get to that next hypothetical. Let's
21 assume all the sources were all going to one bank
22 because the bank has opened its doors and the bank has a
23 big picture of all of the money coming in from the wire,
24 the checks and the cash. And I again propose the
25 percentage makeup here where 50 million is wire, 49 is

14 (Pages 50 to 53)

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1 in checks and one million is in cash. In that context,
 2 as I understand it from your testimony, your concern of
 3 money-laundering activity is much less?
 4 A. Yes.
 5 Q. Now, you heard the testimony of Mr. Kaszubski yesterday
 6 regarding the controls that are in place in cash-setting
 7 situations, correct?
 8 A. Yes.
 9 Q. You heard that there are two people that count the
 10 money. They cross-pollinate and it's all confirmed with
 11 a third person to determine exactly how much. Do you
 12 have a problem with that so far?
 13 A. No, I think that's a good procedure.
 14 Q. Is that from your definition an anti-money-laundering
 15 control?
 16 A. I would call that more fraud control. It's not
 17 necessarily an anti-money-laundering control.
 18 Q. We're still on first base here. Let's stay in that
 19 context. Let's say from your perspective you wanted to
 20 implement an anti-money-laundering control in that
 21 scenario. What could be done more to alleviate your
 22 concern?
 23 A. You've got the cash.
 24 Q. Right.
 25 A. You have your fraud controls because you have a check

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1 and balance, because you have three people, so no one
 2 person has the ability to siphon any of the money. Now
 3 it's a matter of the money being deposited in the bank.
 4 What are your procedures to put the money into the bank?
 5 Q. Before we get to that, I'm just talking right now at
 6 that juncture right now. Is there anything from
 7 your perspective that can be enhanced at this level
 8 right now?
 9 A. No, I would think that that was pretty -- that would be
 10 adequate.
 11 Q. Let me explore that further. Isn't it comforting to you
 12 that when you have three people, that it would
 13 require -- I'm sorry, three people to collude to bring
 14 in cash. As I understand laundering, it's dirty money
 15 and you're trying to make it clean through an
 16 organization, correct?
 17 A. Yes.
 18 Q. That you have three people that are at first base there
 19 right in the beginning collecting the cash,
 20 cross-pollinating, cross-checking, that it would require
 21 all three to collude to bring if it's ill gotten gains
 22 money? So isn't that, by the fact there's three people,
 23 not just one person, that that is a form of an
 24 anti-money-laundering control because three of them
 25 would have to collude to put dirty money in the bank?

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1 Because here you have a situation where one will say,
 2 "No. Hey, where did you get that money from?" Do you
 3 agree with me in that context that that is a form of
 4 anti-money-laundering control? Do you understand where
 5 I'm coming from?
 6 A. Yes. Yes.
 7 Q. Do you agree with me?
 8 A. Yes.
 9 Q. So based on the -- again, I'm engaging in -- there's no
 10 trick questions. This is a candid discussion here. A
 11 deposition doesn't have to be -- part of it is to
 12 discover information and to explore ways to improve
 13 something. We're at first base, which is collecting the
 14 cash.
 15 Now, the next level is going to the bank.
 16 In that context -- you heard Mr. Kaszubski stating, "We
 17 have a policy. We want our men -- or we want our
 18 fundraisers to go right to the first bank because
 19 they're a target for theft, to be robbed, and we also
 20 want to keep our deposits separate for -- to fulfill the
 21 intent of the donor." If one donor wants to give 2,000
 22 for an orphanage, let's say in the Syrian relief
 23 program, and another donor wants to deposit 1500 for a
 24 water well in Syria, and they keep those deposits
 25 separate and they go to the bank, as part of the

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1 control, the most immediate bank, do you view that
 2 procedure as reasonable now knowing the context?
 3 A. Well, are they depositing the money into the same
 4 account? Are they depositing money into multiple
 5 accounts?
 6 Q. In the same account at Bank of America.
 7 A. Okay. Under the scenario you gave me, that would be
 8 reasonable. However, from a total banking perspective,
 9 if I see two or more transactions -- getting to the
 10 structuring, if I see transactions coming in like that,
 11 it's indicative of structuring. That's not to say from
 12 the way you explained it that that's perfectly fine, but
 13 it does then present and that's where it goes to
 14 education about anti-money-laundering that from just
 15 strictly the transactional standpoint, that's going to
 16 be flagged.
 17 Q. Now, in that scenario, sir, what can Life do from your
 18 perspective to address this? Should they not fundraise
 19 at all --
 20 A. Absolutely not.
 21 Q. -- to not flag it? What would you recommend in that
 22 context to help the organization like Life?
 23 A. In that particular context?
 24 Q. Yes.
 25 A. If I were Life?

15 (Pages 54 to 57)

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1 Q. Yes.
2 A. I would go to the bank while I have this relationship
3 going on to explain to them the nature of my business
4 and the fact that I'm going to be making these types of
5 deposits in the account, and I understand that they give
6 the appearance of structuring, but this is our normal
7 course of action. If you came in and explained, and
8 especially what was explained yesterday, how these
9 deposits are intended, that we're going to come in and
10 we're going to have multiple individuals coming into one
11 branch or to multiple branches and there's 5,000 here
12 that's going to this cause, there's 5,000 here going to
13 this cause, and this and this, but we're all going to
14 deposit them at the same time in the same bank, we
15 understand we're going to get flagged for structuring.
16 That's automatically going to come up on transaction
17 monitoring.
18 If you go in beforehand and you were to say
19 that, that demonstrates that, you know what? This is
20 reasonable in the context of the type of business I'm
21 running. That's reasonable. Even though there's an
22 appearance of structuring -- even though there's an
23 apparent structuring here, that's a reasonable
24 transactional activity, reasonable for the type of
25 business that you're involved in.

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1 Q. What if that was done? You had two fundraisers.
2 They're in the same line. They tell the teller this.
3 What if they did do that?
4 A. Who were they telling, the teller?
5 Q. Yes. They did exactly what you recommended. What if
6 they did do that?
7 A. In a perfect world it would work and the teller would
8 report that. The problem here is that transaction
9 monitoring is still going to flag those transactions.
10 Has it gotten to the business relations people? Who is
11 the relationship manager? Has it gotten there? Then
12 the relationship manager needs to talk to compliance
13 because that's where that flag is going to come from.
14 Q. There was a recent verdict against an Arab bank,
15 correct?
16 A. Yes.
17 Q. Were you involved in that? You made some comments,
18 right?
19 A. I was not involved in the case. I was involved with
20 Arab Bank going back to my Bureau days. I certainly
21 have commented about that case.
22 Q. Was that tried in absentia, the verdict in New York
23 against Arab Bank?
24 A. I'm not sure if it was in absentia.
25 Q. Do you recall making the comment that the bank should

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1 get to know its customer?
2 A. I don't recall that specifically, but I probably said
3 that.
4 Q. Do you agree with me that under the new bank -- under
5 the Bank Secrecy Act regulations, that customer
6 identification is important?
7 A. Yes.
8 Q. That banks should delve deeper and look into the
9 identity of its customers?
10 A. Yes.
11 Q. And that would involve bank inquiry, bank contact with
12 the customer?
13 A. Yes and no.
14 Q. What's the yes and what's the no?
15 A. Yes, I agree that from the standpoint of knowing your
16 customer, customer due diligence, it's prudent to get as
17 much information as you can. Certainly when you look at
18 the banks -- and this is where the "no" starts to factor
19 in, but I'm still on the "yes" side. You've got a lot
20 of different stove pipes or silos, and banks are
21 incredibly siloed. You've got the business -- well,
22 let's start with the two major silos; business,
23 compliance. Business, compliance. Now, within those
24 two silos there are additional silos.
25 Go back to the business, you've got the

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1 relationship manager. Now, they should be collecting a
2 lot of that information. They should be working in
3 tandem with the compliance people on the due diligence
4 of understanding who the client is and again developing
5 a snapshot what's reasonable for that type of business.
6 When you get to the level of the
7 anti-money-laundering compliance part, if alerts are
8 triggered and an investigation is open, it's pretty much
9 an industry-wide standard that the AML investigator is
10 not going to contact anybody at a bank -- I'm sorry, at
11 a business regarding the account situation. They're
12 going to conduct their own investigation based on what
13 information they've got, and particularly on the
14 transactional information, and they're going to make a
15 determination of whether or not activity in that account
16 is suspicious.
17 Q. You read Ms. Digsby's deposition, right?
18 A. Yes.
19 Q. Did you see part of her testimony where she says that
20 when she did work at the AML unit that at times she did
21 contact the customer to question about a transaction?
22 A. Okay.
23 Q. Do you remember that?
24 A. Not specifically, but okay.
25 Q. Couldn't she have done that here?

16 (Pages 58 to 61)

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1 A. Could she have? Yes.

2 Q. And had she known that, "Okay. Now I understand the
3 situation here," we may not be here today, right?

4 MR. RODES: Objection; calls for speculation,
5 lacks personal knowledge.

6 Q. (By Mr. Akeel): It's possible?

7 A. It's possible.

8 MR. RODES: Objection; anything's possible.

9 MR. AKEEL: There are some things that are
10 not possible, but we won't get into that.

11 Q. (By Mr. Akeel): I want to go to -- we talked about
12 first base, collecting the cash at the mosque. The
13 controls are there. There is a form of control --
14 anti-money-laundering control there; at least you have
15 three people because that can help.

16 Then we go to the second phase and that's
17 putting the money in the bank account. Again, based on
18 the mission of the charity and the internal controls to
19 segregate the funds to reach its intended destination
20 pursuant to donor intent, they present two deposit
21 tickets at the same bank. Other than what you said,
22 trying to explain to the teller of what's going on, is
23 there anything else that you can see here as you sit
24 here today that Life could have implemented or could
25 implement today to avoid this concern?

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1 A. Well, I believe I said it before is talk to the
2 relationship manager. This is the reasonable activity
3 we've got, and perhaps even at the branch, if you're
4 going to do business at a branch level and you know
5 you're going to use the same branches, speak to the
6 branch managers.

7 Q. I understand. You know how Life engages in fundraising
8 nationally?

9 A. Right.

10 Q. And you understand one of the reasons why Bank of
11 America was chosen is because it has branches nationwide
12 for purposes of not -- for purposes to be able to
13 deposit the money immediately and not have the
14 fundraiser carry cash on the plane? You understand
15 that?

16 A. Yes.

17 Q. So back to this anti-money-laundering control at the
18 second base where we're in the bank, what else, other
19 than already have spoken to the relationship manager,
20 explaining to the teller, is there anything else that
21 you can share with us?

22 A. No.

23 Q. So as we sit here today, what more can Life do, Life For
24 Relief & Development do, with respect to cash that it
25 collects when it fundraises other than what -- the

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1 controls that it has already in place?

2 A. Possibly to have a two-step process when you deposit the
3 funds. I get the segregation where you've got the three
4 people checking. You've earmarked the money. Basically
5 the reason you have multiple people making the deposits
6 is because this money is going to A, this money is going
7 to B, this money is going to C. Have one person make
8 the multiple deposits and explain that.

9 Q. Now, are you aware of any other organization that has a
10 situation that Life has right now?

11 MR. RODES: Vague.

12 Q. (By Mr. Akeel): With respect to collecting cash, like
13 churches or synagogues or things of that nature?

14 A. Specifically, no.

15 Q. Have you ever recommended any internal controls to deter
16 money-laundering activity to organizations like Life?

17 A. I would say no.

18 Q. Part of the money-laundering program you had addressed
19 sources. We -- strike that. One more thing regarding
20 the cash. Other than the fundraising activity at the
21 local mosques, did you, in viewing this case for Life,
22 with respect to the sources now, did you see anything
23 else that reflected there were inadequate
24 money-laundering controls other than the scenario that
25 we were talking about in the mosque? Is there anywhere

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1 else where you saw cash was being collected somewhere by
2 Life and money-laundering controls were not in place?

3 A. No.

4 Q. Let's go to the uses. My understanding is that you said
5 there's procedures also with respect to the uses,
6 correct?

7 A. Yes.

8 Q. Did you hear Mr. Kaszubski say yesterday that one of
9 their controls is that when money is sent for a specific
10 humanitarian project that he implemented a program where
11 there would be a reporting program where all the funds
12 have to be accounted for in the report? Did you hear
13 that?

14 A. Yes.

15 Q. Is that a form of an anti-money-laundering control?

16 A. I think that's an accounting control, because again, you
17 have it separated out. On a transactional level, no.
18 On a transactional level, the bank is going to see the
19 transactions. They're not going to see his control.
20 They're not going to see the controls or the accounting
21 at the company level. Again, the bank is down here at a
22 transactional level. They see it differently.

23 Q. Let me ask it another way. What control can Life
24 implement that it doesn't have already with respect to
25 the uses part that you would recommend to deter

17 (Pages 62 to 65)

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1 money-laundering activity?
2 A. Best case scenario would be to have all the banking in
3 one bank.
4 Q. Let's say they have the banking all in one bank. Would
5 that increase your comfort that Life has implemented the
6 necessary anti-money-laundering controls with respect to
7 the uses?
8 A. Possibly.
9 Q. Now, were you aware that Life For Relief & Development
10 was trying to open up all of its accounts with Bank of
11 America?
12 A. Not until I read Mr. Alomari's deposition.
13 Q. Were you aware they were trying to communicate with Bank
14 of America to do all the wiring through Bank of America?
15 A. No.
16 Q. You were not aware of that?
17 A. No, not until I read that deposition.
18 Q. It puts things in different context, doesn't it, now
19 that you've read his deposition about Life's intention
20 that they were trying to have Bank of America as the
21 primary bank, or it doesn't?
22 A. It does, but then it begs the question about due
23 diligence.
24 Q. Can you please explain? What do you mean, due
25 diligence?

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1 A. The bank is responsible to do due diligence on its
2 customers, to know their customers. We spoke a little
3 bit about know your customer. If the bank is
4 restricting the customer in terms of wires or other
5 account relationships, I would think that there were
6 other reasons for that.
7 Q. Do you know why?
8 A. No, I have no idea.
9 Q. One of the reasons you cite in your report is that Life
10 has multiple accounts. It's a negative thing, right?
11 A. Right.
12 Q. But Life has been trying to put all of its accounts with
13 one bank?
14 A. Yes.
15 Q. In looking at the uses for adequate controls with
16 respect to the anti-money-laundering program, my
17 understanding is if everything is in one bank account,
18 that's a control, correct?
19 A. Yes.
20 Q. Anything else that Life can do --
21 A. Well --
22 Q. -- that they don't do? Anything that Life can do that
23 they have not implemented already?
24 A. One thing that -- going back to the multiple banks,
25 okay? Let's go back to that example for a minute. If I

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1 were Life and I had the multiple bank accounts like
2 that, we've already discussed the fact that that creates
3 higher risks for other banks because each bank only sees
4 that portion of the activity is what comes and flows
5 through their bank. If I'm Life and if I want to be
6 transparent, I provide the other banks, or in this case
7 Bank of America, with bank statements on a regular basis
8 from those banks because Bank of America doesn't have
9 access to the transactional activities in the other
10 banks.
11 Q. Wouldn't that go into the relationship-building, knowing
12 your customer, where the manager of Bank of America
13 talks with Life and says, "Hey, we want to make sure we
14 see the big picture. Can you send us the statements?"
15 Couldn't that be fostered through the relationship?
16 A. It could be.
17 Q. Are you aware of the fiduciary obligations for the board
18 of directors, the officers at a charitable organization,
19 that they basically have to -- that there's a tremendous
20 liability if they don't fulfill the donor's intent to
21 have the money distributed to its intended destination?
22 Are you aware of that?
23 A. Not specifically, but I would assume that there was some
24 sort of responsibility on the part of the board.
25 Q. Do you know what --

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1 A. Yes.
2 Q. Do you know what the definition of fiduciary
3 responsibility is?
4 A. Yes.
5 Q. What do you think it is?
6 A. I think it's the responsibility of the board to ensure
7 that monies would go to the intended purposes, that
8 depending -- well, speaking in the example of Life, that
9 monies go to their intended purposes, that the
10 charitable operations are performed in the manner
11 they're supposed to be, that they're intended to be,
12 that they protect the assets from fraud and other
13 problems. Again, to ensure the integrity of their
14 organization by their operations.
15 Q. Did you hear Mr. Kaszubski testify yesterday that for
16 the purpose of continuity of business? Did you remember
17 hearing him saying that?
18 A. Yes.
19 Q. Where they needed -- where Life, in their exercise of
20 their fiduciary responsibility to ensure the continuity
21 of business, they needed to have different bank
22 accounts? In the event one bank account closes, they
23 have another so they can use that bank to distribute
24 money to alleviate human suffering? Did you get that
25 concept yesterday?

18 (Pages 66 to 69)



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1 A. Yes.
2 Q. Knowing that, that that's their reason why Life For
3 Relief had to have more than one account, they had to
4 have a Plan B option in the event the first bank account
5 is closed, do you view that as suspicious or an exercise
6 of the board -- or an exercise of their fiduciary
7 responsibility?
8 A. No, I don't view that as suspicious. I wouldn't have
9 viewed the multiple bank accounts as suspicious. I
10 would have viewed it as being a high risk -- or higher
11 risk. The reality is regardless of the circumstances
12 it's still a higher risk from the bank perspective.
13 Q. But you have provided a solution that it would reduce
14 that high risk to a tolerable level by the bank getting
15 bank statements from other banks, correct?
16 A. Yes.
17 Q. Did you ever make that recommendation to Bank of America
18 or it's just based on what we discussed today?
19 A. No.
20 Q. Let me give you that scenario. If Life For Relief &
21 Development is willing to put all its banking activity
22 with Bank of America, or Life For Relief & Development
23 is willing to provide monthly bank statements of any
24 other bank account it has to Bank of America, that's the
25 first hypothetical. The second is they have the

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1 controls in place as we described regarding the
2 fundraising activities, they have three people, they
3 count it, they take it and it's known the reason why the
4 deposits are segregated is for a charity mission. We
5 have those two scenarios. So far so good?
6 A. Yes.
7 Q. Based on that hypothetical that I just described, would
8 you be more comfortable to make a recommendation to Bank
9 of America that it can open the bank account with Bank
10 of America because the risk is now within a tolerable
11 limit to deter -- to detect anti-money-laundering
12 activity?
13 A. That would be contingent on other risk factors, but it
14 would elevate my comfort level.
15 Q. What other risk factors that you can share with us?
16 A. Certainly the geographic risk. That's again an inherent
17 risk that's problematic. You've demonstrated you're
18 putting controls together that would help mitigate that,
19 but you still have to overcome that risk.
20 Q. That's one risk, the geographic, which most NGOs face,
21 right?
22 A. Right.
23 Q. And many NGOs bank with major banks, correct?
24 A. Right.
25 Q. Many banks recognize that inherent risk where they're

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1 providing humanitarian aid in areas of strife, right?
2 A. Yes.
3 Q. Any other risk?
4 A. Yeah, the type of accounts. You're dealing with main
5 charitable accounting. You're dealing with operating
6 accounts. How many operating accounts are you dealing
7 with? If you look at what Bank of America looked at
8 here, you're looking at a secondary or a nominal account
9 with nominal activity. And again, just based on that
10 transactional activity, now it's not consistent with a
11 charity's operating account, so what's the
12 reasonableness of that type of account?
13 Q. In your report you mention that you had an opportunity
14 to review the analysis of the transactions that took
15 place in that bank account, correct?
16 A. Yes.
17 Q. And it appeared to be all related to the charity,
18 correct?
19 A. Yes.
20 Q. So again, just like the issue with what more controls
21 can be in place for the anti-money-laundering, when we
22 talked about the fundraising, what more can Life do at
23 this time to increase your comfort to make the
24 recommendation to have its bank accounts open?
25 A. I'm a bit flattered that you think I have that --

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1 Q. I'm going by based on your opinion that considerations
2 to open -- see, this case is a little different. This
3 case is not about money damages, as you know. Obviously
4 we have money with attorneys and all this, but there's a
5 difference here. It's almost like we have -- obviously
6 they've suffered in their reputation and all that. You
7 understand there's different motivations here.
8 One of the things that's being addressed
9 and is even being addressed by the judge is why can't
10 the bank account be open? One of the issues is, well,
11 maybe there is discrimination because Life's doing
12 everything it can. So I'm trying to get to a situation
13 of what else -- if Life agrees to put all its bank --
14 let me go back.
15 If it's now been determined that all the
16 transactions in that bank statement are charity-related,
17 okay? If it's been determined that the deposits were
18 made for noble purposes, for proper internal control
19 purposes, if it's been established that Life has the
20 proper controls when it's collecting cash, at least at
21 the door, and if Life agrees to combine all its bank
22 accounts in one or provide bank statements, what else
23 can Life do to make it now a tolerable risk for a bank
24 account to be open at Bank of America?
25 MR. RODES: Asked and answered.

19 (Pages 70 to 73)

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1 THE WITNESS: Other than what we've
2 discussed --
3 Q. (By Mr. Akeel): Nothing else?
4 A. No.
5 Q. I'd like to go over your report. In your report, which
6 we've identified, sir, as Exhibit 1, if we can go,
7 please, to page five, you state, "With respect to the
8 actions taken by Ms. Marshall and Ms. Digsby,
9 respectively, based on the account activity, they both
10 acted in a reasonable and responsible manner in
11 accordance with industry AML standards. Ms. Marshall
12 diligently followed up on her contact with an FBI agent,
13 took appropriate investigative steps and identified
14 account transactional activity that was not consistent
15 with the expected activity of charity." Do you see
16 that?
17 A. Yes.
18 Q. You agree with me that in light of the information that
19 you have now with respect to the transactional activity,
20 that it was consistent and an expected activity of a
21 charity?
22 A. Qualifier on that. Again, that activity in that account
23 was certainly -- in looking at the accounts that I
24 looked at or the transactional information that I had
25 the opportunity to look at, yes. However, again, when

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1 you compare that account the way it was then, when you
2 look at other charity accounts, that wasn't reasonable.
3 Q. I'm just focusing on that statement where it says,
4 "Identified transactional activity that was not
5 consistent with the expected activity of a charity."
6 When you were provided Bates Life 269 to 270, the
7 spreadsheet listed the expenses and were, in fact,
8 consistent with the charity activity, correct?
9 A. They were consistent with that account's activity, but
10 not with what you would normally expect in a charity.
11 That's what I'm trying to say.
12 Q. You don't think a charity needs to be able to expend or
13 write checks for plane tickets or for office supplies?
14 A. I think they should, yeah.
15 Q. You understand that's the kind of expenses that were at
16 the Bank of America account?
17 A. Right. But again, when you look at an account that's
18 going to be an operating account like that, that was
19 really nominal expenses and things. You would expect a
20 lot more activity.
21 Q. Maybe you would expect also, as part of the Bank Secrecy
22 Act, a phone call, "Hey, you guys in the website say
23 you're dealing in millions. We just see 100,000.
24 What's going on?" right?
25 A. Well, again, it depends on who the phone call is

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1 supposed to come from.
2 Q. Someone from the bank.
3 A. There's no requirement in the Bank Secrecy Act for that.
4 Q. Let's go to the next thing here. "This included
5 identifying unusual pattern of deposits, including two
6 instances of structuring." Do you see that?
7 A. Yes.
8 Q. Where did you get that information that they detected
9 structuring when they were going to close the bank
10 account?
11 A. It was all in Ms. Marshall's deposition, and when I
12 looked at the account activity myself you could see that
13 pattern of activity.
14 MR. AKEEL: I would like to mark this as
15 Exhibit 4.
16 (Whereupon Deposition Exhibit No. 4
17 was marked for identification.)
18 Q. (By Mr. Akeel): I've given you, sir, what's been marked
19 as Exhibit 4. Exhibit 4 is titled, "Global AML 30-Day
20 Closure Recommendation." Was that report provided to
21 you?
22 A. Yes.
23 MR. RODES: Objection. There's three
24 versions of the page we're looking at, Bates 36.
25 They've been produced in discovery.

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1 MR. AKEEL: Well, I have --
2 MR. RODES: Okay. You have it there.
3 My apologies.
4 MR. AKEEL: I put not version two. What's
5 the point?
6 MR. RODES: I'm sorry, I didn't realize you
7 attached the same version three. You're good to go.
8 Appreciate it.
9 MR. AKEEL: For the sake of clarity on the
10 record, Exhibit 4 is Bates 36 version three; 37, version
11 two; 38, 39.
12 Q. (By Mr. Akeel): Was this furnished to you for your
13 review before you issued your opinion?
14 A. Yes.
15 Q. Have you seen this kind of a report before?
16 A. Yes.
17 Q. What is it?
18 A. It's basically a recommendation to close the account.
19 Q. Have you had to give an opinion regarding this report on
20 other cases?
21 A. I'm sorry, can you repeat that?
22 Q. Have you had to give another opinion in another case
23 regarding the improper closure of an account and you
24 looked at some kind of closure report like this?
25 A. No, not in any other case.

20 (Pages 74 to 77)



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1 Q. If you can please go down to the middle where it says,
2 "Global AML has based its closure recommendation on the
3 following factors. The factors listed below are NOT,"
4 capital "not" and underlined, "to be communicated to
5 customer(s)/client(s) under any circumstance. The
6 purpose of providing this information is to assist the
7 line of business in identifying potential or continued
8 policy/procedure violation, address these in a timely
9 fashion and contribute to the closure decision." Do you
10 see that?
11 A. Yes.
12 Q. Do you see the first box?
13 A. Yes.
14 Q. Can you please read that for the record?
15 A. "Accounts/entities exhibiting patterns of structured
16 transactions."
17 Q. Was that marked?
18 A. No.
19 Q. In fact, if you can look at this report, Exhibit 4, is
20 there any reference, sir, that Ms. Digsby or
21 Ms. Marshall had stated, "Hey, there's a pattern of
22 structuring here, and here are the two dates where we
23 discovered that to justify our closure"?
24 A. No.
25 Q. So you agree with me that when we go back to your

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1 you just look at Exhibit 4, is there any reference to
2 structuring in two instances?
3 A. No.
4 Q. Let's continue. If we can go, please, to the next thing
5 here.
6 A. Where are you?
7 Q. We're still in your report, page five. "Ms. Marshall
8 also identified a pattern of transactional activity that
9 was conducive to personal expenditure versus business
10 expenses consistent with the account of a charity." Do
11 you see that?
12 A. Where are you again? Oh, yes, yes, yes.
13 Q. Do you agree with me based on what we've discussed today
14 that there's no evidence that there were personal
15 expenses?
16 A. Based on our discussion here, yes.
17 Q. If we can continue to the next -- page six, please. In
18 the beginning of the paragraph you stated, "Patterns of
19 deposit activity into the LFRD account from unknown
20 sources in numerous states in the U.S. to include
21 instances of structuring is consistent with the
22 placement of funds in the front end of money-laundering
23 process and therefore it was reasonable for Ms. Marshall
24 to flag instances she reviewed as suspicious." Do you
25 see that?

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1 report, which is page five, which states, "This included
2 identifying unusual pattern of deposits, including two
3 instances of structuring," you're really referring to
4 what she testified to and not what she put in her
5 closure report at the time when they made the decision
6 to close the account, correct?
7 A. No, I'm talking about both. In here she talked about a
8 pattern of activity. Structuring is a pattern of
9 activity.
10 Q. Where do you see, sir, the word "structured"?
11 A. I see "structured" in that box you pointed out.
12 Q. I understand that, but is it marked?
13 A. No.
14 Q. Did you listen -- or did you read Ms. Digsby's
15 deposition?
16 A. You mean Ms. Marshall?
17 Q. No, Ms. Digsby.
18 A. Yes.
19 Q. Did you read her testimony where she said she doesn't
20 see any reference to any structure in the report as
21 well?
22 A. Yes.
23 Q. So back to your report here where you say, "This
24 included identifying unusual pattern of deposits,
25 including two instances of structuring," my point is, if

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1 A. Yes.
2 MR. RODES: Where are you on the page?
3 THE WITNESS: This part right here.
4 MR. RODES: Okay.
5 Q. (By Mr. Akeel): We kind of addressed some of the things
6 in here, but the first sentence I'd like to look at
7 where it says, "Patterns of deposit activity into the
8 LFRD account from unknown sources." Where did you get
9 the words "unknown sources" from?
10 A. That was Ms. Marshall's depo.
11 Q. That's from her deposition?
12 A. Yes.
13 Q. If we can please go to the closure report, page two, do
14 you see on the bottom it says, "Investigation Results,
15 High Level"?
16 A. Yes.
17 Q. It says, "An investigation of the account in the name of
18 Life For Relief & Development revealed unknown sources
19 of cash deposits." Do you see that?
20 A. Yes.
21 Q. Did you come to learn what she was referring to when she
22 was saying that the deposits were from unknown sources?
23 Did you understand my question?
24 A. I thought you were going to say something else.
25 Q. No. I said, did you come to learn what Ms. Marshall was

21 (Pages 78 to 81)



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1 referring to when she was saying the deposits were from
2 unknown sources?
3 A. Yes.
4 Q. What did you learn?
5 A. From the bank tickets, that there's no name of somebody
6 depositing -- it's counterdeposits.
7 MR. AKEEL: I would like to mark this as
8 Exhibit 5.
9 (Whereupon Deposition Exhibit No. 5
10 was marked for identification.)
11 Q. (By Mr. Akeel): I've given you, sir, what's been marked
12 as Exhibit 5. Have you seen this before?
13 A. Yes.
14 Q. Now, can you please identify this for the record?
15 A. These are out-of-state counterdeposits, a series of
16 them, that correlate to the amounts that Ms. Marshall is
17 talking about for the unknown deposits.
18 Q. Have you seen this type of credit -- I mean this type of
19 deposit slip before where a customer is supposed to
20 complete it and then give it to the teller?
21 A. Yes.
22 Q. Do you see on the top, for example, the first one in
23 Exhibit 5, it's Bates 120?
24 A. Yes.
25 Q. It looks like someone handwrote the amount of the

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1 inference so this presumption doesn't stand out that
2 they're engaging in money-laundering?
3 A. It's not on the form.
4 Q. Would you agree with me, sir, that if Bank of America
5 had a place on its form for a customer to put his name
6 or her name that that can alleviate that confusion?
7 A. Yes, but that's also -- it's not just Bank of America.
8 Q. I'm just saying --
9 A. Yes.
10 Q. Would you agree with me that that -- in fact, that could
11 also be an enhancement of money-laundering control and
12 that the bank is being more prudent and responsible that
13 if they had a place in the deposit slip where a
14 depositor can identify his name or her name and address,
15 that that can increase internal controls to deter
16 money-laundering?
17 A. Only if you can verify the names.
18 Q. I understand, sir, but isn't it better than not having a
19 name?
20 A. Yes.
21 Q. And when you have the name, that can help further deter
22 the money-laundering activity?
23 A. Yes.
24 MR. AKEEL: We can break at this time.
25 (Break in proceedings.)

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1 deposits, cash of 540. Do you see that?
2 A. Yes.
3 Q. Can you please explain to me where can a depositor put
4 his name so he can be identified?
5 A. There isn't anyplace on the form for that.
6 Q. In fact, isn't this a common slip that is used by
7 customers in general to deposit?
8 A. Yes.
9 Q. So isn't it true that basically when a customer submits
10 this type of deposit that we're looking at, if all
11 customers are using this deposit slip that we're talking
12 about that they're all unknown and unidentified,
13 correct?
14 A. Yes.
15 Q. If all the customers are unknown and are unidentified
16 when they're making deposits, what makes it unusual for
17 Life in comparison to another customer that's also
18 making a deposit from unknown sources and the depositor
19 is unidentified, if you know?
20 A. In this instance you have a pattern. It's not just one
21 person. There's a number of deposits coming, as she
22 said, from different places in the country. That's
23 indicative of different types of money-laundering
24 patterns.
25 Q. Where can a customer put his name to negate this

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1 MR. AKEEL: Sir, we're back on the record.
2 You understand you're still under oath?
3 THE WITNESS: Yes.
4 Q. (By Mr. Akeel): We were going over your report. When
5 we left off we were on page five. I'd like to take you
6 to page 11, please. I'm sorry, page 12. In the middle
7 of the paragraph you state, "Based on the review of
8 account transactional information, Ms. Marshall
9 determined that the transactional activity of the
10 combined accounts was not consistent with the
11 transaction activity for a charity. She also determined
12 that the pattern of cash deposits made in multiple
13 states to include two instances where deposits were
14 structured were unusual." Do you see that?
15 A. Yes.
16 Q. We already went over that?
17 A. Yes.
18 Q. This is the part I want to discuss. "Further,
19 Ms. Marshall determined that expenses from the account
20 appeared to be personal instead of business-related."
21 We've already discussed that, right?
22 A. Yes.
23 Q. "When asked by LFRD's Counsel during deposition,
24 Ms. Marshall advised she was concerned about a check
25 deposited into BoA account 7217 on December 30, 2012 in

22 (Pages 82 to 85)

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1 the amount of \$100,000. The check came from Zakat
2 Foundation and contained the handwritten reference
3 'EM/Syria.' In addition to the concern about the amount,
4 none of the money was sent to Syria or to any
5 identifiable charitable purpose. Based on my review of
6 the combined BoA account statements for the period March
7 31, 2012 -- 2011 and May 31, 2012 (LFR BANA 60-119) and
8 the deposit slip and check from the Zakat Foundation,"
9 and again it's in paren the Bates number, "I concur with
10 Ms. Marshall's finding." Do you see that?
11 A. Yes.
12 Q. If we can go back to the closure report, which is
13 Exhibit 4, would you agree with me, sir, that there's no
14 indication or no reference at all of a \$100,000 deposit
15 concern?
16 A. Yes.
17 Q. And in fact, if we look at the closure report, there's
18 no indication that the \$100,000 was ever a concern --
19 the specific \$100,000 was a concern to cause the account
20 to be closed; you agree?
21 A. Let me look at something, if I may.
22 Q. Sure.
23 MR. RODES: What was your question, whether
24 or not it was a concern or whether or not that's in
25 the --

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1 MR. AKEEL: It's in the report.
2 THE WITNESS: Yes, okay. Yes.
3 Q. (By Mr. Akeel): If we can continue, it states in the
4 next paragraph, "The deposit of the check from the Zakat
5 Foundation to BoA account 7217 is an anomaly and a red
6 flag. This deposit was totally inconsistent with other
7 deposits into the BoA account. It would appear that the
8 check from Zakat Foundation was intended to go to
9 charitable purposes, especially with the handwritten
10 reference 'EM/Syria.' I believe the term 'EM/Syria'
11 means earmarked for Syria. The funds sat in the BoA
12 account from December 30, 2011 until at least May 31,
13 2012." Do you see that?
14 A. Yes.
15 Q. You agree that your observation here that you reference
16 in your report is not in the closure report, correct?
17 A. Yes.
18 Q. Now, when you were making this report, sir, were you
19 ever furnished a report that I'm about to give you?
20 MR. AKEEL: I'd like to mark this as
21 Exhibit 6.
22 (Whereupon Deposition Exhibit No. 6
23 was marked for identification.)
24 Q. (By Mr. Akeel): Were you ever furnished this report
25 before you authored your report, which is Life Bates 1

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1 to Bates 4, and it's titled, "Report for the Emergency
2 Relief for Syrian Refugees in Jordan, January 2012"?
3 A. I believe I did see this.
4 Q. Do you see how the report is dated January 2012?
5 A. Yes.
6 Q. Do you see how the deposit was made the prior month, in
7 December of 2011?
8 A. Yes.
9 Q. Now, do you see on the second page where it says,
10 "Praise for Zakat Foundation," and this is Bates 3? On
11 the bottom it states, "During the distribution, Life
12 staff received many words of praise and thanksgiving for
13 Zakat Foundation and the donors who provided the funds
14 for this project." Do you see that?
15 A. Yes.
16 Q. Now, doesn't it appear, sir, if the deposits were made
17 into the bank account at Bank of America to alleviate
18 human suffering for Syrian refugees in Jordan in
19 December of 2011 and you have a report the following
20 month that it appears that the funds that were deposited
21 in Bank of America reached its intended destination in
22 Jordan, from what I'm showing you?
23 A. Yes. Well, from a banking perspective -- from Bank of
24 America's perspective, all they see is a hundred
25 thousand dollars sitting in a bank account. Regardless

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1 of whether I see this or not, the \$100,000 that was
2 deposited by that entity is still sitting in that bank
3 account. From the singular standpoint of Bank of
4 America, it's hard for them to draw -- or for me to draw
5 the inference that that money -- I mean, from a common
6 sense standpoint, yeah, it looks like this is the
7 benefit of that project. From strictly a transactional
8 standpoint, the \$100,000 is sitting where it is. Bank
9 of America has a regulatory issue here.
10 Q. I understand. We already established in the closure
11 report the \$100,000 thing isn't even an issue, correct?
12 A. I need to go back and really read this.
13 Q. Sure. Take a moment. Take a look at the closure report
14 and see if there's any concern raised.
15 A. I thought I saw in the closure report she talked about
16 transactional activity on a higher level, which in my
17 view would then include this.
18 Q. All I'm talking about is one thing. Can you see if
19 there's any concern in the closure report that, "Hey, we
20 have the \$100,000 and it looks like it's been sitting in
21 the account for several months and it doesn't appear
22 that it reached its intended destination"?
23 A. It doesn't say that, obviously.
24 Q. In the EM/Syria where you say, "I believe the term
25 'EM/Syria' means earmarked for Syria," you're just

23 (Pages 86 to 89)

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1 guessing on that, right?
2 A. Yes.
3 Q. You see on the report it says, "Emergency." Couldn't
4 the "EM" say, "Emergency/Syria"?
5 A. Yes.
6 Q. Now, I understand -- are you familiar with debt
7 principles?
8 A. Yes.
9 Q. How did you gain that familiarity?
10 A. I have an accounting degree, Bachelor's in Accounting.
11 I spent three years with the IRS as an IRS auditor.
12 I've done limited accounting work, very limited, so I
13 qualify that. After I retired from the FBI, I went to
14 work with AES, a Fortune 200 energy company, and I was
15 brought in to set up an anti-fraud program, and I did
16 that in the internal audit department, so we obviously
17 were dealing with accounting principles, the same
18 principles he was explaining yesterday.
19 Q. Mr. Kaszubski?
20 A. Yes.
21 Q. I'm not laughing because of what you're saying. It's
22 just my annunciation of the name.
23 A. I got it.
24 Q. Perception is an issue here in this case. Are you aware
25 of accounting principles applied in not-for-profit

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1 sects?
2 A. Not specifically in general. I understand the
3 accounting principles, right? That's one thing. But
4 also from a transactional standpoint at the bank, the
5 bank has to be concerned about the regulatory
6 responsibility and they have to answer to the
7 regulators. The regulators see the hundred thousand.
8 They don't look at accounting principles.
9 Q. I'm asking you a simple question.
10 A. Yes, I'm sorry.
11 Q. Do you understand the principles where if government
12 accounting is implemented that there could be accounts
13 used known as restricted funds?
14 A. Yes.
15 Q. Have you heard of that?
16 A. Yes, and you spoke about that yesterday.
17 Q. You agree with me that restricted funds means that if
18 the accounting system is set up that way, that if
19 100,000 is to be taken for an intended purpose, that
20 that specific hundred thousand would be put in that
21 account and then it would be used for that restricted
22 purpose? Do you understand that?
23 A. Yes.
24 Q. And do you understand that typically cash is fungible?
25 A. Yes.

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1 Q. You can put 100,000 for an intended purpose as long as
2 the 100,000 reaches its intended destination. You
3 understand it may not be the same \$100,000 in bills?
4 A. Yes.
5 Q. I just want to make sure. If I'm giving \$20 to go to an
6 orphan, you understand that same \$20 bill may not be the
7 one -- it could be another \$20 bill?
8 A. Yes.
9 Q. And you understand that that other \$20 bill, if you
10 don't have a restricted fund, could be from another
11 account?
12 A. Yes.
13 Q. Now, in listening to the testimony yesterday, did you
14 hear where it was testified that the big picture is the
15 most important thing and that is you compare the sources
16 with the uses to make sure that the sources are
17 distributed in a manner where it would be consistent
18 with the uses? Do you remember that line of testimony?
19 A. Yes.
20 Q. So if we look here at the Zakat Foundation in the big
21 picture sense and the Zakat Foundation distributed the
22 100,000 -- I'm going past the closure report now. I'm
23 addressing this concern you have in your report. If you
24 look at the 100,000 that was donated by Zakat Foundation
25 and they wanted it -- and it says, "Emergency Syria,

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1 EM/Syria," and then I show to you Exhibit 6, the report
2 showing that the next month, you agree from a big
3 picture sense that the sources match the use?
4 MR. RODES: Objection; calls for speculation
5 and assumes facts not in evidence.
6 THE WITNESS: In general, yes, but I don't
7 know that the same amount of money went there.
8 Q. (By Mr. Akeel): I understand. Was there any follow-up
9 inquiry made to ascertain whether the money the -- the
10 exact 100,000 went there?
11 A. Not by me, and certainly I don't know to what degree
12 Ms. Marshall followed up.
13 Q. You know, you had mentioned earlier a person by the name
14 Mr. Alamari?
15 A. Yes.
16 Q. What was the relationship to you on this? You
17 represented him?
18 A. No, no, no. Ali Alamari was arrested in 2002, in that
19 time period, and ultimately charged as an enemy
20 combatant. He was sent here the day before 9/11 to be
21 the facilitator of the second wave of terrorist attacks.
22 Q. You know the guy next to me, his name is Mr. Alamari?
23 A. Yes.
24 Q. When you saw his name -- again, I'm trying to go into
25 your state of mind. Did you think maybe there's a

24 (Pages 90 to 93)

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1 connection?
2 A. Absolutely not. His spelling is totally different than
3 the other Alamari.
4 Q. Other than the spelling, did you do an investigation or
5 anything?
6 A. I knew Alamari's background. Not this Mr. Alomari, the
7 Alamari we were dealing with.
8 Q. There is indication of -- if we can go, please, to page
9 13, I'd like to ask you a question. Do you remember
10 when Mr. Kaszubski testified that what is important is
11 to look at the general ledger? When you see cash coming
12 in, that the general ledger on the balance sheet would
13 indicate the cash that's on hand at that time. Do you
14 remember that?
15 A. Yes.
16 Q. Have you seen balance sheets where there is a trial
17 balance?
18 A. Yes.
19 Q. Have you seen balance sheets where you'll have a total
20 sum of cash, but if you go to the trial balance, the
21 trial balance has sub parts that make up the cash
22 balance on the balance sheet?
23 A. Yes.
24 Q. And what does the term "commingling" mean to you? What
25 does that mean?

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1 A. Well, commingling of funds on one level would be if you
2 take -- the simplest explanation is when you take licit
3 funds and illicit funds and you're commingling them in
4 the same account.
5 Q. I'm sorry?
6 A. From a law enforcement perspective, if I'm investigating
7 a criminal activity, oftentimes the criminal, to hide
8 the activity and the money, commingles the funds into a
9 legitimate bank account.
10 Q. Is there any other definition you have with the word
11 "commingling"?
12 A. Well, where you're mixing funds together.
13 Q. Have you heard it in a civil context if you are using
14 funds from a business and you're applying it for
15 personal expenses?
16 A. Yes.
17 Q. So based on what we discussed here, there is one sense
18 of commingling -- one definition of commingling where
19 monies -- illegal money is mingled with good money,
20 that's what you mean?
21 A. Yes.
22 Q. And the second commingling is when there's personal
23 expense being commingled with business expense?
24 A. Yes.
25 Q. Is there any other definition of commingling that you're

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1 aware of?
2 A. No.
3 Q. Let's go, please, to the middle of page 13, under J,
4 where it says, "Best Practices for Accountability and
5 Transparency of a Charity," and then you look and it
6 says, "When LFRD -- what LFRD did was a form of
7 commingling funds were specific funds intended for one
8 purpose are used for a different purpose." Do you see
9 that?
10 A. Yes.
11 Q. We went over the word "commingling." We don't have
12 personal expenses being commingled with business
13 expenses, correct?
14 A. Correct.
15 Q. And we don't have illegal monies being commingled with
16 good monies, correct?
17 A. Correct.
18 Q. So the word "commingling" here is not a proper word,
19 correct?
20 A. Correct.
21 Q. If we can, please, go to the next page, page 14 -- I'm
22 sorry, page 15. If we can go to the third paragraph,
23 "While I was conducting limited due diligence research
24 to support my findings in this report, I identified
25 negative media reporting regarding LFRD. According to

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1 media reports, in 2006 the FBI executed a search warrant
2 at LFRD's South Michigan office. Subsequently, former
3 LFRD employee Muthanna Al-Hanooti was indicted by a
4 Grand Jury in 2008 for illegal activity conducted with
5 Iraq while employed by LFRD." Do you see that?
6 A. Yes.
7 Q. Is the media that you're relying on the one that we went
8 over, MilitantIslam.org?
9 A. No.
10 Q. Do you have definite knowledge that he was indicted at
11 all while employed with Life other than what you relied
12 on in the media?
13 A. I'm trying to remember if in the indictment it said he
14 was employed by Life. I read the indictment, but I
15 don't recall off the top of my head.
16 Q. Well, would it surprise you he was not employed by Life
17 and it was after -- after the relationship was
18 terminated with Life? Would that surprise you, sir, to
19 know that Mr. Hanooti was indicted after he left the
20 employ of Life?
21 A. But for activity while he was at Life.
22 Q. I'm asking you, would it surprise you that Mr. Hanooti
23 was indicted for activities personal to him, not related
24 to Life, and it was after he left Life?
25 A. Search warrants were executed at Life, so there was an

25 (Pages 94 to 97)

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1 involvement, but under what you just said, yeah, he
2 wasn't at Life at that point.
3 Q. You understand the difference between a search warrant
4 and an indictment? Search warrant is an investigative
5 tool, right?
6 A. Yes.
7 Q. To gather information?
8 A. I know it very well.
9 Q. I don't want to mix the concepts. The indictment could
10 be for something different than what's in the search
11 warrant or it could be for facts gathered later, right?
12 A. Yes.
13 Q. Are you aware that he was indicted for things unrelated
14 to Life and it was after he left Life?
15 A. Not specifically.
16 Q. If someone -- have you done white collar crime?
17 A. Have I committed it? No.
18 Q. Have you been involved in investigating white collar
19 crime?
20 A. Yes.
21 Q. Have you been involved where employees or former
22 executives worked at a company and then later on they
23 were indicted for something?
24 A. Yes.
25 Q. Would you attribute that indictment to the company that

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1 they used to work for?
2 A. I would attribute it to the individual, but it could be
3 involving an activity on behalf of the company.
4 Q. Do you have certainty today that Muthanna Hanooti was
5 indicted and convicted for activities involving Life?
6 A. No.
7 Q. Now, do you know what the illegal activity was he was
8 indicted for?
9 A. I did. I don't specifically recall right now.
10 Q. You testified earlier today -- you said the word
11 "terrorism." It's a commonly used word.
12 A. Yes.
13 Q. Do you have definite knowledge that he was indicted for
14 terrorism?
15 A. No.
16 Q. Are you aware of the facts surrounding where he was
17 accused for having congressmen -- United States
18 congressmen go to Iraq to see the suffering and that was
19 the issue regarding how the congressmen were flown over
20 to Iraq to see the human suffering? Are you privy to
21 those facts?
22 A. Yes, I saw that.
23 Q. If we can, please, go to page 16, in the fourth
24 paragraph, sir, where it says, "The fragmented nature of
25 LFRD's bank accounts," do you see that?

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1 A. Yes.
2 Q. When you use the word "fragmented," do you mean using
3 more than one bank account?
4 A. Yes.
5 Q. Based on what we discussed today, you understand why
6 there was more than one bank account? It was for a
7 matter of survival?
8 A. Yes.
9 Q. If we can continue, it says here, "The fragmented nature
10 of LFRD's bank accounts and the singular nature of the
11 accounts at BoA poses a high level of risk at BoA. The
12 risk is compounded by the nominal nature of the BoA
13 accounts and the fact is not consistent with activities
14 conducted by charities." Do you see that, and you have
15 a plural in charities?
16 A. Yes.
17 Q. You haven't examined the bank accounts of other
18 charities, correct?
19 A. Correct.
20 Q. So it's really hard for you to make a comparison with
21 Life with other charities at this time, correct?
22 A. Yes.
23 Q. If we can please go to the last page, we went over this.
24 Again, I'm going to ask you now, in light of what we
25 discussed today regarding the testimony and what we've

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1 established, if we can look at that last page, that last
2 sentence again where it says, "I reserve the right to
3 modify this report upon further review or any new
4 information that comes to my attention," do you see
5 that?
6 A. Yes.
7 Q. Would you agree with me, sir, that based on what we
8 discussed today, that this report could be modified and
9 changed to be more accurate?
10 A. In certain respects, yes.
11 Q. My understanding is that you were part of a thing called
12 "Counterterrorism Blog"?
13 A. Yes.
14 Q. And that has ceased, correct?
15 A. Yes.
16 Q. When did that stop?
17 A. Somewhere around 2008, 2009.
18 Q. Why? What happened to stop that?
19 A. The person who was really the individual behind it who
20 kind of operated the blog, his job changed and he didn't
21 have the time and nobody really had the time to
22 administer it.
23 Q. And what was this person's name?
24 A. Andrew Cochran.
25 Q. Do you know him personally?

26 (Pages 98 to 101)

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1 A. Yes.
2 Q. And what's his background?
3 A. I met him -- he was a congressional staffer on the
4 House -- I think it was the House Financial Services
5 Committee.
6 Q. Now, regarding this blog, did you meet with other
7 contributing authors face-to-face?
8 A. On occasion.
9 Q. And who were the authors that you remember meeting?
10 A. Victor Comras.
11 Q. Can you spell that, please?
12 A. C-o-m-r-a-s.
13 Q. Okay.
14 A. Andy wrote a bit, Andy Cochran, Doug Farah.
15 Q. Doug Farah?
16 A. Yeah. He's a former reporter for the Washington Post
17 and he actually went to one of those think tanks I
18 talked about. I'm terrible with names. Jonathan Winer,
19 W-i-n-e-r. There were a lot of people on there.
20 Q. Steve Emerson?
21 A. Emerson was on there, but Emerson didn't really write.
22 He had other folks do his writing for the most part.
23 Q. Bill West?
24 A. Yes.
25 Q. What's his background?

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1 A. If I'm not mistaken, there were two Bills. Bill West I
2 believe was with the State Department.
3 Q. So you met with him personally, too?
4 A. Yes.
5 Q. How about Evan Coleman?
6 A. I know who he is. We never met.
7 Q. Who is he?
8 A. He's a terrorism -- he's a talking head, basically.
9 He's a terrorism expert, works at one of the think
10 tanks.
11 Q. Which think tank?
12 A. I'm not sure.
13 Q. Michael Kraft?
14 A. Yes.
15 Q. What his background?
16 A. He's a former immigration customs agent.
17 Q. Dr. Zachary Abuza?
18 A. Yeah, he was from the Middle East somewhere. He might
19 have been a professor, I believe, somewhere. He was,
20 again, another person in the think tanks.
21 Q. Dr. Walid Faris?
22 A. Yes.
23 Q. Who is he?
24 A. He's an author. Again, somebody I believe in the think
25 tanks. Does an awful lot of writing on the Middle East.

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1 Q. So all these people you met with?
2 A. Not on a regular basis. For instance, we would get a
3 group of us. At times we would do congressional
4 briefings.
5 Q. What was the purpose of this counterterrorism blog?
6 A. It was to promote awareness to terrorism. My
7 involvement in it was to promote awareness to terrorist
8 finance and issues, things like that.
9 Q. What is your definition of a terrorism expert?
10 A. That's a good question. I think you can have varied
11 views on that. Certainly somebody who's had firsthand
12 experience in dealing with terrorism. Some of these
13 folks from their -- I think more from an academic
14 standpoint consider themselves experts.
15 Q. How about Daveed Gartenstein-Ross; do you know him?
16 A. Yes.
17 Q. Who is he?
18 A. Daveed worked at an NGO, the one up in Oregon, that you
19 had the case against Pete Setta (ph). I don't recall,
20 again, the name -- I should know the name of the charity
21 off the top of my head. The charity was convicted and
22 ultimately I think the conviction was set aside on a
23 technicality.
24 Q. He wrote a book, something about Jihad or something
25 about Islam?

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1 A. It was about his conversion to Islam.
2 Q. He converted to Islam?
3 A. Yes.
4 Q. It's about his conversion?
5 A. It's about his transformation, how he converted. Like I
6 said, there was an NGO up in Oregon and Pete Setta ran
7 the NGO.
8 Q. Paraterian (ph)?
9 A. No.
10 Q. You know which NGO I'm talking about, Paraterian?
11 A. That's not it, though. I don't know them, but that's
12 definitely not the NGO. In any event, Gartenstein wrote
13 a book about how he evolved and how he converted to
14 Islam and how he was influenced by Setta and others.
15 Q. Is he considered an extremist now or a danger?
16 A. No.
17 Q. Olivia --
18 A. Go back to Gartenstein for a minute. He's another guy
19 who's in the think tank. He's more of an academic type,
20 but he's got the experience of having worked in an NGO
21 and his book is about his personal experience of what he
22 went through, and he's mild.
23 Q. How about Olivia Gateau?
24 A. I've met her. She's in a think tank. I don't really
25 know her very well. One of those policy institutes.

27 (Pages 102 to 105)

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1 Q. How about Kenneth Conaboy?
2 A. I've never met him. I've certainly read some of his
3 stuff. I'm not sure if he was a reporter or not. I
4 don't know what his background really was.
5 Q. Aaron Manns?
6 A. Yeah.
7 Q. Who's he?
8 A. He was a professor at Maryland University.
9 Q. What's his background?
10 A. Other than being a professor, I'm not sure.
11 Q. How about David Shanker?
12 A. I don't believe I knew him. The name is familiar, but I
13 don't believe I knew him.
14 Q. How about Amish Roul?
15 A. I don't know much about him.
16 Q. What's his background, do you know?
17 A. No.
18 Q. Matthew Levitt?
19 A. Matt Levitt, former FBI analyst. He's now at Washington
20 Institute for Near East Policy. He's one of the people
21 who writes extensively about Hezbollah and Hamas.
22 Q. How about Jonathan Winer?
23 A. I gave you his name. He was a former State Department
24 official, former Treasury official.
25 Q. How about Frank Highland?

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1 A. No, I don't think I know Frank.
2 Q. Roderick Jones?
3 A. No, I don't know him.
4 Q. Paul Cruick, C-r-u-i-c-k?
5 A. No. As this blog -- as it was followed extensively,
6 more people got involved.
7 Q. Farhana Qazi?
8 A. No, I don't recall that name.
9 Q. Lorenzo Vidino?
10 A. Yes.
11 Q. Who's he?
12 A. He had worked at Emerson's Investigate Project.
13 Q. Steve Emerson?
14 A. Yeah, and he left and went to Europe, I believe, to
15 Italy. He wrote a book over there. He's a very
16 grounded guy, very objective.
17 Q. How about Madeline Gruen?
18 A. I don't believe I've ever met her.
19 Q. How about James McGinnia?
20 A. No, I don't recall him.
21 Q. Michael Brawn?
22 A. Yes.
23 Q. Who is he?
24 A. Michael Brawn is a former deputy director at the Drug
25 Enforcement Administration.

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1 Q. Are any of these people that you're aware of openly
2 biased towards Arabs, Arab-Americans or Muslims?
3 A. We talked about Emerson.
4 Q. Right.
5 A. I don't know any of them to be. What I know of a number
6 of those folks is they're objective and I think they're
7 balanced. I think a few possibly have -- Doug Farah,
8 for instance, he wrote the book "Conflict Diamonds."
9 He's a former Washington Post article (sic). He was
10 obsessed with the Muslim Brotherhood. You have a few
11 people with -- I won't say issues, but tendencies like
12 that.
13 But by and large, I think -- I mean, if you
14 look at a guy like Mike Kraft, he was totally consumed
15 by immigration issues. He corresponded that to
16 terrorism. Do you call that bias? I don't. West was
17 very objective. I think Daveed was objective. Levitt I
18 find objective. Most of the people were.
19 Q. Did you engage in interrogation practices with
20 Arab-Americans or Muslim-Americans or persons of Arab
21 origin?
22 A. Interrogations, no; interviews, yes.
23 Q. When did you do such interviews?
24 MR. RODES: Objection. How is this within
25 the scope of an expert deposition?

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1 MR. AKEEL: It probes into bias.
2 THE WITNESS: It would have been after 9/11.
3 And as a policy statement here, the FBI did not believe
4 in the interrogation tactics so we did not participate
5 in any way, shape or form in any of those
6 interrogations. We conducted straightforward interviews
7 where we did it the good old-fashioned way, what we're
8 doing here. I happened to have a team of guys who were
9 very talented and we identified people at Guantanamo Bay
10 who were known financial facilitators.
11 I sent teams of agents down there at my
12 direction and I orchestrated the interviews. They were
13 straightforward interviews where we would build up a
14 rapport over time. We would go down there in -- my team
15 would go down in 45-day rotations. They would report to
16 me almost daily on that stuff and I would direct how
17 they would conduct the interviews. We had very
18 productive interviews. I had teams of agents after 9/11
19 that went to Abu Dhabi. We had direct access to the
20 central bank in Abu Dhabi. I had agents in the bank and
21 I would direct what they would do.
22 We identified -- I can't get into specifics.
23 We identified a key player that was close to bin Laden
24 and we worked to identify his assets and ultimately
25 worked with the intelligence community to render him.

28 (Pages 106 to 109)

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1 Now, what happened at that point, we weren't involved in
2 it. We did -- anything we did was in accordance with
3 investigative procedures and certainly in the form of
4 traditional interviews.
5 Q. (By Mr. Akeel): When you say traditional interviews,
6 that doesn't include any acts of torture, does it?
7 A. Absolutely not.
8 Q. Were you ever involved in investigating Life?
9 A. No.
10 Q. Did you ever hear of any type of investigation of Life?
11 A. Yes.
12 Q. When did you hear that?
13 A. That would be around the search warrant time period I
14 was aware of it.
15 Q. How did you become aware of it?
16 A. Either through the media or contacts that I had.
17 Q. At the time when Life was under investigation, were you
18 still working with the FBI?
19 A. Let's go back and -- let me go back and better answer
20 that question. Back in 2002 and 2003 -- maybe late
21 2001, 2002, we identified that one of the most
22 significant potential problems we had was monies that
23 were going through charities to terrorists. I'm not
24 necessarily talking about U.S. charities, but charities,
25 particularly Saudi charities, and so charities became

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1 one of our top priorities and that's when the cases
2 against the Dallas --
3 Q. Holy Land?
4 A. Holy Land, Benevolence International, Global Relief, all
5 those places. Life's name came up at that time, so I
6 was aware of Life at that time, and many other
7 charities. I don't believe at that time we investigated
8 Life. It was after I left and the Al-Hanooti thing came
9 up. I remember that case. I remember some publicity
10 about it.
11 Q. The what, Al-Hanooti?
12 A. Yes, I'm sorry. I'm mispronouncing it. I remember that
13 and so it would have been that context. I certainly --
14 after I left the FBI, I didn't receive any information
15 about ongoing investigations. I couldn't.
16 Q. Were you aware -- so before you were contacted by
17 Mr. Rodas, you had heard of Life before in your context
18 when you were working with the FBI and afterwards?
19 A. Right.
20 Q. Was there any communication made to you that Life was
21 engaging in any wrongdoing by Mr. Rodas or anyone from
22 McGuire?
23 A. No.
24 Q. Do you have any knowledge as you sit here today that
25 Life is under any investigation?

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1 A. No.
2 Q. Are you aware that Life is operational and doing its
3 thing that it's been doing the last 20 years?
4 MR. RODES: Objection; lacks personal
5 knowledge, calls for speculation.
6 Q. (By Mr. Akeel): Are you aware that it's providing
7 humanitarian aid around the world?
8 A. Yes.
9 Q. Do you speak Arabic?
10 A. No. I'm lucky I speak English.
11 Q. And you're not aware that Life was asking Bank of
12 America if it can wire?
13 A. No, I didn't know anything about that.
14 Q. Were you aware that after Life's bank account was
15 closed, Life made repeated attempts to try to
16 communicate with someone at Bank of America to try to
17 explain the problem?
18 A. Through the third complaint and through Mr. Alomari's
19 testimony, yes.
20 Q. Did you see the letters that were issued?
21 A. Yes.
22 Q. By ADC to Bank of America to try to reach someone, even
23 the human relations manager at their bank, to try to get
24 an understanding why the bank account was closed? Did
25 you see those letters?

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1 A. Yes.
2 Q. In your opinion, with the bank closure and Life is
3 engaging in efforts to find out why the bank account is
4 being closed, do you think it would be prudent on behalf
5 of the bank to engage in a discussion with its customer?
6 MR. RODES: Vague as to time period.
7 Q. (By Mr. Akeel): After the bank account was closed.
8 A. I can't speak to that, honestly, with the bank, but I
9 can tell you that's a practice that's common. It's not
10 just Life. I know of many instances where similar
11 things have happened.
12 Q. Well, are you aware of the concerns that are being
13 raised by the Arab-American community where their bank
14 accounts are being arbitrarily closed? Are you aware
15 that this is an issue?
16 A. I'm aware of the concern.
17 Q. Not just Life. Are you aware of other Arab-Americans
18 that have sustained or have experienced similar
19 situations where their bank accounts are being closed
20 arbitrarily?
21 MR. RODES: Objection to characterization as
22 arbitrarily.
23 Q. (By Mr. Akeel): Just are closed without giving any
24 reason?
25 A. Yes.

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1 Q. Are you aware that the Civil Rights Division of the
2 Department of Justice in the state of Minnesota has
3 launched an investigation against banks to see why
4 Arab-American bank accounts are being closed without
5 reason?
6 A. No.
7 Q. Do you have an opinion why a segment of the
8 population -- of the American population, persons of
9 Arab ethnicity, seem to be experiencing these type of
10 bank closures in comparison to other segments of the
11 population that are not of Arab ethnicity?
12 MR. RODES: Objection to the extent that it
13 hasn't been established that these closures are for any
14 sort of -- one reason or another.
15 THE WITNESS: I would attribute it to risk.
16 Q. (By Mr. Akeel): Can you please explain to me, why is
17 there -- when you say risk, what do you mean?
18 A. Where the entities have identified them, fairly or
19 unfairly, as high-risk.
20 Q. Do you think persons' names contribute to that
21 perception of possible risk if your name is Ahmed or
22 Mohammed or Samir or things like that?
23 A. It shouldn't.
24 Q. Do you believe that that can contribute?
25 A. I don't think I can answer that, honestly. I really

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1 haven't seen it on an individual basis. I've seen it on
2 a company basis. I've seen, for instance -- was it Dara
3 Salam in Arlington, Virginia, they had their bank
4 account closed.
5 Q. As you sit here today, based on the records that you've
6 looked at, have you been able to discover any evidence
7 of any illegal act at all committed by Life?
8 A. No.
9 Q. Are you aware that Life has a United Nations
10 consultative status?
11 A. I believe I saw that, or something to that effect, on
12 the website.
13 Q. Do you know what that means?
14 A. No.
15 Q. Do you have a specific motivation why you agreed to be
16 an expert witness here against Life For Relief &
17 Development that you can share with us?
18 MR. RODES: Objection to characterization of
19 "against."
20 MR. AKEEL: It's against Life. We're on the
21 other side. We're on the side of the V.
22 MR. RODES: You put it in terms of engaged as
23 an expert against Life. He's engaged as an expert to
24 offer testimony and to consult.
25 Q. (By Mr. Akeel): When you were asked to be an expert,

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1 you knew that the Plaintiff was Life For Relief, right?
2 A. Yes.
3 Q. Back to my question. Do you have any motivations that
4 you can share with us on why you agreed to be an expert
5 witness for Bank of America in this case?
6 A. Just from the standpoint of reviewing the account
7 information I was presented.
8 Q. Do you have any motivations to close down -- to see what
9 you can do to try to close down Life For Relief &
10 Development?
11 A. No.
12 Q. Yesterday there was some discussion regarding the
13 corporate compliance plan that was enacted by Life's
14 fraud expert?
15 A. Yes.
16 Q. Did you have a chance to review it?
17 A. Yes.
18 Q. Do you have an opinion regarding the corporate
19 compliance plan?
20 A. It seems like a good plan. You used the word yesterday,
21 Mike, "robust."
22 MR. AKEEL: I'd like to mark this -- I want
23 to make sure we're referencing the same one -- as
24 Exhibit 7.
25 MR. RODES: Shereef, that was provided to us

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1 and we reserve the right, to the extent necessary, to
2 supplement any of the materials that Mr. Lormel has
3 prepared after he's had a chance to subsequently review
4 that document.
5 MR. AKEEL: Of course.
6 (Whereupon Deposition Exhibit No. 7
7 was marked for identification.)
8 Q. (By Mr. Akeel): I made reference to Exhibit 7, which is
9 a corporate compliance plan. Is that the one you were
10 referring to?
11 A. I didn't have a chance to look at it in detail. I
12 skimmed it and certainly listened to the explanation.
13 Q. If there's anything that you believe is different than
14 what you testified to, please -- or obviously advise
15 your attorney and we can get a report, I suppose.
16 MR. RODES: Yes.
17 MR. AKEEL: This is Exhibit 8.
18 (Whereupon Deposition Exhibit No. 8
19 was marked for identification.)
20 Q. (By Mr. Akeel): We've discussed earlier regarding your
21 opportunity to review the expenses that were related to
22 the bank account. Do you remember that line of
23 testimony?
24 A. Yes.
25 Q. Are these the expenses -- I just want to confirm -- that

30 (Pages 114 to 117)

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1 you had a chance to review and that's Exhibit 8?
2 A. Yes.
3 Q. When I look at your report, you make reference to Bates
4 269 to 270; is that accurate?
5 A. This is 268 to 271.
6 Q. Okay. So included is 269 and 270?
7 A. Yes.
8 MR. AKEEL: This is Exhibit 9.
9 (Whereupon Deposition Exhibit No. 9
10 was marked for identification.)
11 Q. (By Mr. Akeel): You authored Exhibit 9?
12 A. Yes.
13 Q. Now, if we can go to the second paragraph, it looks like
14 you reviewed the two internal audits for years 2012 and
15 2013, correct?
16 A. Correct.
17 Q. If we look in the third paragraph, you state -- in the
18 second paragraph -- or the first paragraph, it says,
19 "Both reports address independent review of the policies
20 and procedures of LFRD to detect and deter fraud. Both
21 reports provide assessments of controls in place to
22 mitigate fraud risk. I have no reason to question the
23 findings." Do you see that?
24 A. Yes.
25 Q. As you sit here today, that's true, correct?

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1 A. Yes.
2 Q. If we can go to the next paragraph, it says, "Charities,
3 especially charities such as LFRD, who operate in areas
4 of global conflict, pose an inherent high risk to fraud,
5 money-laundering and terrorist financing. Accepting the
6 audits as presented, it demonstrates that LFRD has
7 controls in place that adequately mitigate the risk of
8 fraud." Do you see that?
9 A. Yes.
10 Q. Do you agree with that?
11 A. Yes.
12 Q. Now, you agree with me as well that other charities
13 other than Life that operate in areas of global conflict
14 also pose an inherent risk to the same thing; fraud,
15 money-laundering and terrorist financing?
16 A. Yes.
17 Q. So it's not just peculiar to Life, right?
18 A. Yes.
19 Q. And then if we can continue there, "This in turn lowers
20 inherent risk of fraud and potentially places LFRD at a
21 lesser risk as an organization." Do you see that?
22 A. Yes.
23 Q. Do you agree with that?
24 A. Yes.
25 Q. Let's go to the next sentence, "The audit reports do not

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1 address the risk of money-laundering or terrorist
2 financing." Do you see that?
3 A. Yes.
4 Q. Now, what would you expect to see in the report that
5 wasn't in the report to address the risk of
6 money-laundering or terrorist financing? Do you want
7 copies of the reports to look at?
8 MR. AKEEL: Let's mark this as Exhibit 10 and
9 this as 11.
10 (Whereupon Deposition Exhibit Nos. 10 and 11
11 were marked for identification.)
12 Q. (By Mr. Akeel): I have provided Exhibit 11, Exhibit 10,
13 and then we can look at your Exhibit 9, okay? In that
14 sentence where it says, "The audit reports do not
15 address the risk of money-laundering and terrorist
16 financing," I guess my question is, what do you mean by
17 that?
18 A. Well, it doesn't talk about any kind of control
19 mechanism, for instance, as to the recipient of the
20 funds or what steps are in place to ensure that funds
21 don't get siphoned or diverted to terrorism for
22 terrorist financing. It doesn't talk about any
23 money-laundering -- any money-laundering considerations
24 other than those that you would associate with the fraud
25 controls. It doesn't talk about transactional activity.

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1 Q. So are you saying the specific words weren't mentioned,
2 "money-laundering"? I'll withdraw that and ask it a
3 different way. Did you hear the testimony yesterday
4 from Mr. Kaszubski who stated that anti-money-laundering
5 controls are within the internal controls? Did you hear
6 him say that?
7 A. Yes.
8 Q. More than once?
9 A. Yes.
10 Q. Did you get an understanding of what he meant by that?
11 A. Not necessarily, and I don't know that I agree.
12 Q. Let's go to the second page, for example. You see
13 where --
14 A. Which Exhibit?
15 Q. I'm sorry, Exhibit 10. Do you see where it says,
16 "Employee Controls"? Do you see that?
17 A. Yes.
18 Q. An A?
19 A. Right.
20 Q. You remember when we talked earlier today about
21 collecting cash at a local mosque and then if there's
22 three people and they all have to sign off that the
23 money is good, that that's a form of
24 anti-money-laundering control? Remember we discussed
25 that?

31 (Pages 118 to 121)

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1 A. Yes.
2 Q. If it's in that context of employee controls in that
3 example, would you agree that it is being addressed in
4 that way?
5 A. Not specifically. That was intended to be a fraud
6 control the way I look at it. You took it to reach to
7 being a money-laundering control. It could be, but in
8 and of itself that's not enough.
9 Q. Look at J, where it says, "Corruption Controls."
10 A. Okay.
11 Q. Do you know what he meant when he said corruption
12 control?
13 A. Corruption is one of the biggest enablers of terrorism.
14 Q. Can't corruption also be -- doesn't that also seep in in
15 money-laundering? Isn't that a corruption practice?
16 A. Again, you're not talking about money-laundering.
17 You're looping money-laundering into that. That's a
18 stretch.
19 Q. Wouldn't you consider terrorist financing as fraudulent
20 since it's altering donations which could be covered by
21 fraud control?
22 A. In one sense, yes.
23 Q. Let's go to L. Do you see where it states, "Reporting
24 Controls"?
25 A. Yes.

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1 Q. Remember you had discussed earlier regarding
2 anti-money-laundering practices where you want to be
3 able to compare the sources and uses? Remember that?
4 A. Right.
5 Q. So wouldn't -- if there's reporting controls in place
6 where a report is supposed to be filed by a project when
7 it received the money, that that's a form of a control
8 to deter anti-money-laundering practices -- I mean,
9 money-laundering practices?
10 A. Not specifically. I don't disagree with you on that,
11 but the thing is, here you've got -- not to overuse the
12 word "fragment," but you're fragmenting this stuff. Why
13 don't you just have a money-laundering control in here?
14 Q. Let's say he put the word -- let's say after K, L, and
15 he had M and it's the same controls in place, but he put
16 the word "money-laundering control," then you would have
17 been happy with the report?
18 A. I wouldn't say I would have been happy. I would have
19 said it would have been more acceptable.
20 Q. Even though the same controls are in place and nothing
21 else can be added to deter --
22 A. When you look at these other controls -- and the reason
23 I say this is you don't think money-laundering with
24 those controls. You think fraud. You think corruption.
25 The intent is other than money-laundering.

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1 Q. I'm just trying to wrap something up here and that's
2 regarding what we know today and what you have been
3 advised and the information that has been shared with
4 you today. Do you agree that you can't identify
5 something that Life can additionally do other than what
6 it already has to deter or to reduce the risk of
7 money-laundering?
8 A. I think it could be better focused.
9 Q. What could be more focused? What control can be
10 implemented?
11 A. I would call it money-laundering control.
12 Q. The words I understand. I'm talking physically what can
13 be implemented that is not in place right now at Life to
14 reduce the risk of money-laundering that you can
15 identify?
16 A. From the money-laundering perspective, what are they
17 doing to identify money-laundering transactionally?
18 Money coming in, money out.
19 Q. Let me give you this scenario -- this hypothetical: 99
20 percent of the sources that are coming in are
21 identifiable by wire and checks.
22 A. Okay.
23 Q. The other one percent is what we talked about; three
24 people are verifying this. Do you agree with me that
25 Life has adequate money-laundering --

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1 anti-money-laundering controls by encouraging wire and
2 checks?
3 A. Yeah, by that. Again, in and of itself, what's the
4 source of the wire? What's the source of the checks?
5 But more importantly on the back end, the money going
6 out, what's the assurance that it's not getting siphoned
7 into a terrorist? What's the due diligence process
8 there?
9 Q. We went into Exhibit -- I gave you the example,
10 Exhibit 6. Isn't that by demanding a reporting
11 requirement to see where the funds went? That would be
12 a form of money-laundering control?
13 A. I don't know that I would call it a money-laundering
14 control. How do I know that all the money that was
15 earmarked to go there went there? How do I know, even
16 though you have this, that some of this didn't go to, as
17 has happened, to support terrorism?
18 Q. If you are --
19 A. What steps are you taking --
20 Q. Tell me another -- other than asking the beneficiary,
21 "Give us a report. Give us an accounting of where all
22 the money went. We want photographs of the wells?"
23 A. I don't see --
24 Q. Let me just say it. Let's assume all those controls are
25 in place. What other assurance can Life do to satisfy

32 (Pages 122 to 125)

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1 your threshold?
2 A. I think I would like to see the breakdown of the funds.
3 Q. Suppose there is an accounting that shows a breakdown of
4 the funds, a report that's mandated. Suppose they
5 require that. Anything else that you think Life doesn't
6 have?
7 A. With the breakdown of the funds there and again seeing a
8 more focused description on that back end, the assurance
9 that -- you spell out your fraud assurances, an
10 assurance or some type of due diligence or checks that
11 money won't be siphoned off or isn't being siphoned off.
12 Q. You see in D, for example, there's a reference to
13 skimming controls. We talked about siphoning, right?
14 A. Yes.
15 Q. So those are in place as well, right?
16 A. That's skimming. What do you mean by skimming? Are you
17 talking about skimming by employees?
18 Q. I'm not trying to argue.
19 A. I'm not trying to argue either.
20 Q. I'm just trying to address your thing where it says,
21 "The audit reports do not address the risk of
22 money-laundering and terrorist financing." I'm saying
23 here the fact that there's reporting controls -- go on.
24 A. To a degree, yes, I think you're right.
25 Q. If you can, please look at Exhibit 11 that we talked

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1 about. Do you see where in 2013 there was an
2 enhancement plan put in place to do a source and use of
3 funds testing?
4 A. Yes.
5 Q. Now, that would also help reduce the risk of
6 money-laundering, right?
7 A. Yes.
8 Q. If we can go to the second page, do you see where
9 ReGroup advisors has committed itself to conduct
10 biweekly and an annual review of employee controls,
11 management controls, theft controls, skimming controls,
12 cash controls, check and credit card controls,
13 purchasing controls, payroll controls, operating expense
14 controls, corruption controls, conflict of interest
15 controls, reporting controls, that all these testings
16 that are being made biweekly and an annual basis that
17 also helps reduce the risk of money-laundering?
18 A. Yes.
19 Q. This is my last line of questioning, then we're done.
20 Go back to your report, please, Exhibit 1. If we can go
21 to page 14. I'd like to now go down -- we've kind of
22 gone through and I'd like to go to the third paragraph.
23 It says, "The first step" -- I do have a question before
24 I go into this. Are you aware that there is an outside
25 auditor that examines Life For Relief & Development's

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1 books to issue an independent, unqualified opinion? Are
2 you aware of that?
3 A. Yes.
4 Q. Are you aware that after review of the statements for
5 2012 and 2013, Life had received an unqualified opinion?
6 A. I wasn't aware of that.
7 Q. Are you aware that in order for Life to maintain its
8 license with state regulatory agencies that it must have
9 its annual statements audited?
10 A. Yes.
11 Q. Are you aware that Life goes through the extra effort to
12 dispatch the independent certified auditor to go
13 overseas and monitor and audit the books?
14 A. No, I wasn't aware of that.
15 Q. Would you agree with me that by taking that extra step
16 to have an accountant to go overseas and conduct an
17 audit, that that also reduces the risk of
18 money-laundering and wrongful acts?
19 A. It could, but their focus is not on money-laundering.
20 Their focus is on accounting records and doing an
21 independent review or an audit of accounting records.
22 That's different than money-laundering, but to your
23 point, yes, it can help.
24 Q. I mean, one of the concerns you brought up today was --
25 is there any monitoring going -- or auditing at the

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1 receiving end. Do you remember that?
2 A. Right.
3 Q. If you have an auditor that is actually engaging in
4 transactional audit to see if the money reached its
5 intended destination, wouldn't you agree with me that
6 Life has gone the extra step to deter money-laundering
7 or other wrongful acts?
8 A. Yeah.
9 Q. If we can please go to page 14. In the third paragraph,
10 it states, "The first step in considering whether to
11 reopen the LFRD account would be to discuss and resolve
12 issues regarding transactional activity." Do you see
13 that?
14 A. Yes.
15 Q. And then it says, "First, concerns regarding cash
16 deposits by unknown individuals to include structural
17 deposits would need to be addressed." Do you see that?
18 A. Yes.
19 Q. We've already addressed that, right?
20 A. Yes.
21 Q. Second, "BoA would have to validate the legitimacy of
22 business expenses." Do you see that?
23 A. Yes.
24 Q. We've addressed that, too, correct?
25 A. Yes.

33 (Pages 126 to 129)



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1 Q. Let's go to the next paragraph. I'm sorry, if you can
2 go to page 15, the second step -- I'm going to the
3 second step now.
4 A. Got you.
5 Q. "Would be for BoA to conduct enhanced due diligence of
6 LFRD and the purpose of the BoA account relationship."
7 Do you see that?
8 A. Yes.
9 Q. "Regardless of how reputable an organization LFRD is and
10 how impressive their accomplishments are, they operate
11 in some of the highest risk countries in the world. As
12 a charity operating in high-risk jurisdictions, LFRD
13 should be considered a high-risk customer." Do you see
14 that?
15 A. Yes.
16 Q. Now, we've kind of went over the controls and things to
17 mitigate or to reduce Life For Relief as a high-risk
18 customer to an acceptable level, correct?
19 A. We've discussed that, yes.
20 Q. Now, the next paragraph we already discussed about
21 Muthanna Hanooti?
22 A. Yes.
23 Q. We go to the last paragraph, "The decision to reopen the
24 LFRD relationship rests with BoA." Do you see that?
25 A. Yes.

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1 Q. "Based on the risk factors associated with LFRD account
2 relationship, it appears that the level of risk to
3 reopen and maintain the account is disproportionate in
4 any benefit in maintaining the account relationship."
5 Do you see that?
6 A. Yes.
7 Q. Now, "In addition, due to LFRD's fragmented banking
8 relationships, it would be difficult for BoA to satisfy
9 regulatory expectations for high-risk customers in this
10 instance." Do you see that?
11 A. Yes.
12 Q. Now I'm going to give you this hypothetical: Assume
13 that Life For Relief & Development would agree to have
14 all of its banking in one bank, Bank of America. Okay
15 so far? I'm giving you the scenario. I just want to
16 hear a yes.
17 A. I'm sorry, yes.
18 Q. Assume that only one percent of the sources of funds
19 that Life gets is cash, and 99 is through wire and
20 checks with an identified donor -- depositor or donor,
21 okay?
22 A. Yes.
23 Q. That's hypothetical number two. So far so good?
24 A. Yes.
25 Q. Number three, assume that Life For Relief & Development

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1 has implemented the robust corporate compliance plan.
2 A. Yes.
3 Q. Assume that Life For Relief & Development has in its
4 last annual financial statements received an unqualified
5 opinion that the financial statements represent in all
6 material respect the financial condition of the
7 organization.
8 A. Yes.
9 Q. Assume that Life For Relief & Development is committed
10 to reporting requirements from overseas offices where
11 the reports are to be broken down in cost and the
12 reports are to be provided back to the Southfield office
13 within 30 days, with pictures, with documentation
14 regarding where the funds were applied and with a full
15 report, okay? So far so good?
16 A. Yes.
17 Q. Assume that Life For Relief will have all of its
18 internal controls in place regarding the one percent
19 cash that it collects where it has three people that
20 monitor the cash that's being collected at the local
21 mosques, okay?
22 A. Yes.
23 Q. Now, based on what I have just told you -- and I want to
24 go back to this paragraph now where it states, "It
25 appears that the level of risk to reopen and maintain

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1 the account is disproportionate to any benefit." Would
2 you agree with me that based on the controls that I have
3 submitted to you, and I would have to prove them, that
4 if I prove all this is true, that the level of risk to
5 reopen and maintain Life For Relief & Development's bank
6 account is proportionate to any benefit -- to the
7 benefit in maintaining the account relationship?
8 A. I would say could be. Again, you still have a couple
9 other factors, but it could be. Certainly my comfort
10 level would be better.
11 Q. What are the other factors?
12 A. Again, it's the geography, the fact that Bank of America
13 needs to do their own enhanced due diligence.
14 Q. You agree with me that the factors that you've mentioned
15 would be existent to any other charity as well?
16 A. Absolutely.
17 Q. If Bank of America had opened its accounts to those
18 charities where the inherent risk is similar, then that
19 would be a consideration to open the bank account for
20 Life?
21 A. Should be.
22 MR. AKEEL: Just give me one minute.
23 (Brief pause in proceedings.)
24 MR. AKEEL: I have just a couple of
25 questions.

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1 Q. (By Mr. Akeel): Sir, when I was questioning you on the
2 sources of funds, I indicated that one percent is cash
3 and the rest is check and wire. Were you aware that in
4 fact one-third is credit card, one-third is check and
5 one-third is wire and the one percent is cash? Were you
6 aware of that?
7 A. No.
8 Q. Would you agree with me that the use of a credit card
9 and the encouragement of the use of a credit card
10 through the website is a further practice that lowers
11 the risk of money-laundering activity?
12 A. In general, yes. I think there are some impediments
13 there that need to be overcome, but with the control
14 mechanisms you can deal with that.
15 Q. Finally, the last question is, you know I had raised
16 that issue about -- I gave you all of those factors that
17 I have to prove that are in place, hypothetically, and
18 if they're all in place, then Bank of America could open
19 the account. Is there a factor in your mind that if the
20 organization is not run by Arab-Americans that that is
21 even a lower risk for the bank to open an account?
22 A. No. If I thought that, I wouldn't be sitting here.
23 MR. AKEEL: I have no further questions.
24 EXAMINATION BY MR. RODES:
25 Q. I want you to pull out your report, Exhibit 1, and if

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1 rely on in terms of forming an opinion?
2 A. No.
3 MR. AKEEL: Objection; leading.
4 Q. (By Mr. Rodes): Same questions with respect to The
5 Investigative Project website. Did you go specifically
6 to The Investigative Project website to look up
7 information on Life For Relief?
8 A. Yes.
9 Q. And why is that?
10 A. Again, they have good investigative files out there in
11 terms of case history and legal cases and references to
12 names and entities and individuals.
13 Q. Would you say that that information is separate from any
14 sort of editorializing that may be done by Steven
15 Emerson on the information?
16 A. Yes.
17 MR. AKEEL: Objection; leading.
18 Q. (By Mr. Rodes): Did you rely on any opinions by
19 Mr. Emerson in forming your opinions in this report?
20 A. No, just on the information that was contained in those
21 files, which is public source court records for the most
22 part.
23 Q. If not specifically relied upon in forming an opinion,
24 why would you include a particular piece of material in
25 Exhibit 1?

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1 you could, just flip back to page 19, Exhibit 1.
2 Mr. Akeel asked you some questions about some of the
3 materials in this list. You have items one through 101,
4 okay? Every single thing listed in here, did you rely
5 on the information in every single one to create your
6 opinion?
7 A. No.
8 MR. AKEEL: Objection; leading.
9 Q. (By Mr. Rodes): Are some of these -- one through 101,
10 are some of these simply results that came up in
11 internet searches?
12 A. Yes.
13 Q. Was part of your -- in creating your report and doing
14 some of your own independent research, did you Google
15 the name Life For Relief?
16 A. Yes.
17 Q. When you Googled the name Life For Relief, is that when
18 the MilitantIslamMonitor.org website showed up as a
19 result?
20 A. Yes.
21 Q. Independent of searching for the name Life for Relief on
22 Google or whatever search you used, did you specifically
23 go to MilitantIslamMonitor.org?
24 A. No.
25 Q. Is MilitantIslamMonitor.org a website that you would

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1 A. That I had gone to those sites and I reviewed
2 information on those sites. I make a note that that's
3 where I've been.
4 Q. Is that your standard practice?
5 A. Yes.
6 Q. I think you testified in response to a question posed by
7 Mr. Akeel, Mr. Akeel had asked you if you had thus far
8 seen any evidence of any sort of money-laundering by
9 Life For Relief and I believe your answer was you have
10 not; is that correct?
11 A. Yes.
12 Q. Is that the same as saying that the activity is not
13 possibly indicative of money-laundering?
14 MR. AKEEL: Objection; leading.
15 THE WITNESS: Can you repeat that?
16 Q. (By Mr. Rodes): Yeah. Is that the same as saying that
17 the activity that was reviewed in 2012, 2011 by the
18 bank's investigator was not possibly indicative of
19 money-laundering?
20 MR. AKEEL: Objection.
21 THE WITNESS: I'm not sure I understand.
22 Q. (By Mr. Rodes): Is there a distinction in your mind
23 between evidence of money-laundering and transactional
24 activity that could indicate money-laundering?
25 A. Yes.

35 (Pages 134 to 137)

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1 Q. So while you testified that you did not -- and you're
2 not aware of evidence of money-laundering, what is your
3 testimony with respect to whether or not the activity
4 that was reviewed when the account was closed could
5 possibly indicate money-laundering?
6 A. Yes, the activity -- transactional activity did have red
7 flags for money-laundering.
8 Q. Does a bank investigator -- in your 41 years of
9 experience, does a bank investigator need to come to a
10 conclusion of a financial crime such as money-laundering
11 in order to recommend closure of an account?
12 A. No. The financial investigator from a financial
13 institution is responsible to identify suspicious
14 activity or potential suspicious activity. Law
15 enforcement is responsible for following through and
16 determining whether it's a criminal activity.
17 Q. Is the threshold for identifying suspicious or unusual
18 activity different than a threshold for finding evidence
19 of actual crime?
20 A. Yes. The threshold for identifying suspicious activity
21 is much lower and that's based on a number of warning
22 signs, red flags, anomalies. Certainly the threshold
23 for identify -- for proving a criminal offense is a much
24 higher standard.
25 Q. In your experience, is that an industry-wide standard in

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1 terms of the threshold for finding unusual or suspicious
2 activity versus criminal activity, as you've testified?
3 A. Yes. I make it a point -- I do a lot of teaching and
4 when I talk to financial institution investigators in
5 particular, remind them that their job is not -- they're
6 not responsible for identifying criminal activity.
7 They're responsible for identifying suspicious activity.
8 Whether it's criminal and proving it's criminal, that's
9 for law enforcement.
10 Q. Is there some sort of regulatory obligation that AML
11 investigators in banks are held to in order to report
12 suspicious activities?
13 A. I think the biggest failure in the banking industry is
14 the failure to file suspicious activity reports -- or
15 file adequate suspicious activity reports. Yes, there
16 is a very high standard when it comes to -- one of the
17 very first things the regulators are going to do when
18 they come in to do an examination is look at the bank's
19 suspicious activity filings.
20 Q. Is it your opinion based on what you've reviewed, based
21 on the materials you've reviewed, that Investigator
22 Christa Marshall reviewed, is it your opinion that that
23 information -- that the account activity reviewed was
24 indicative of potential suspicious activity?
25 A. Yes.

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1 MR. AKEEL: Objection; leading.
2 Q. (By Mr. Rodes): What is your impression of the --
3 strike that. You testified that you have greater
4 comfort level based on the testimony of Mr. Kaszubski
5 yesterday and maybe some information that you've heard
6 today based on -- regarding how Life For Relief has
7 implemented certain control procedures governing their
8 internal operations; is that correct?
9 A. Yes.
10 Q. Are you aware of whether or not Bank of America had
11 access to those materials at the time it closed the
12 account in 2012?
13 A. No, I'm not.
14 Q. Do you have any reason to believe that Bank of America
15 would have known or received any evidence -- Bank of
16 America or any of its investigators would have had
17 information relating to the controls that Life For
18 Relief may or may not have had in place at the time in
19 2011 or 2012?
20 A. No.
21 Q. Does the bank have an obligation during an AML
22 investigation and review to seek out that kind of
23 control information from a client like Life For Relief?
24 A. No.
25 Q. In connection with an AML review, was it proper for

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1 Investigator Marshall and for Ms. Digsby to not reach
2 out to Life For Relief?
3 A. Yes.
4 Q. Why is that?
5 A. AML investigators typically do not reach out to clients.
6 Other components in the bank may, but
7 anti-money-laundering investigators for the most part do
8 not. Some do, but I think basically across the industry
9 you'll find that the practice is that they don't.
10 Q. Was it consistent with your understanding of the
11 industry standard for Marshall and Digsby or anyone in
12 connection with this AML review to not reach out to Life
13 For Relief?
14 A. Yes.
15 Q. Is there any particular reason why it would possibly be
16 unadvisable or why it would be consistent with industry
17 standard to not reach out?
18 A. Yes, because one reason in particular is that if they
19 disclosed that they had identified suspicious activity
20 or that they reported suspicious activity, that's a
21 serious breach and a violation.
22 Q. Violation of what?
23 A. Violation of the law, and bankers can be prosecuted and
24 have been prosecuted for that.
25 Q. Are you referring to a specific law?

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1 A. The BSA, Bank Secrecy Act.
2 Q. Is it accurate from your knowledge -- you're familiar
3 with the Bank Secrecy Act?
4 A. Yes.
5 Q. Very, very familiar with the Bank Secrecy Act?
6 A. Yes.
7 Q. It comes up in your daily practice?
8 A. For the most part, yes.
9 Q. And in your prior experience as an investigator and in
10 the FBI, Bank Secrecy Act was an issue?
11 A. Yes.
12 Q. And the Bank Secrecy Act has a specific provision that
13 SARs or information leading to SARs is not to be
14 disclosed except for regulatory reporting purposes?
15 A. Yes.
16 Q. So if an investigator reviewed activity that he or she
17 believed to be suspicious, it would be consistent with
18 industry standards and appropriate in your opinion to
19 not divulge that information to the target of that
20 investigation?
21 A. Yes.
22 Q. And in fact, they're prohibited from doing so?
23 A. Yes.
24 Q. I believe that you testified in response to some
25 questions from Mr. Akeel regarding wire transactions

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1 having some greater -- giving you a higher level of
2 comfort than, for example, cash transactions in terms of
3 verification of the funds; is that correct?
4 A. Yes.
5 Q. In connection with the wire transaction, though, how
6 would it be that you could identify or confirm how the
7 funds on the receiving end were going to then be
8 implemented and used?
9 A. Based on the transactional information, I wouldn't have
10 that information.
11 Q. Is there anything that you've seen that would indicate
12 that Life For Relief has any policy in place that would
13 in fact confirm how those funds were used on the
14 receiving end?
15 A. No.
16 Q. Is that something you think would be consistent with AML
17 standards, that they should have that in place?
18 A. Yes.
19 Q. Even if Life For Relief had such a policy or procedure
20 in place, is there any reason to believe that the bank,
21 at the time it conducted the investigation, would have
22 had that info?
23 MR. AKEEL: Objection; speculation.
24 THE WITNESS: No.
25 Q. (By Mr. Rodes): Do you have any -- is there any

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1 evidence indicating that the bank had any information
2 about any kinds of AML controls or policies at the time
3 it closed the accounts and reviewed the accounts?
4 A. No.
5 Q. Did it have an obligation to seek that information out?
6 A. No.
7 Q. Could seeking that information out have possibly
8 undermined the investigation?
9 A. Possibly, yes.
10 MR. AKEEL: Objection; foundation.
11 Q. (By Mr. Rodes): You're aware that Ms. Marshall
12 originally was looking at an entity called Syria Relief
13 & Development in response to an FBI tip?
14 A. Yes.
15 Q. It's your understanding that Life For Relief became a
16 subject of inquiry because of transactions between Syria
17 Relief and Life For Relief?
18 A. Yes.
19 Q. Was it appropriate procedure for Ms. Marshall to look at
20 Life For Relief after it saw a transaction between the
21 original target of an FBI inquiry and Life For Relief?
22 A. Yes.
23 Q. Is that a component of an anti-money-laundering review?
24 MR. AKEEL: Objection; foundation.
25 THE WITNESS: Yes, it would be. It would be

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1 good diligence on the part of the investigator; in this
2 case, Ms. Marshall.
3 Q. (By Mr. Rodes): Is it standard in your experience for
4 bank investigators to take a review of a target to that
5 second level in terms of where the money is going to
6 from the original target?
7 A. Yes.
8 Q. With regard to donations coming in in the form of
9 checks, I believe you also testified similar to wiring,
10 that money coming in the form of a check was less
11 problematic or less risky than money coming in as cash;
12 is that accurate?
13 A. Yes.
14 Q. Do checks present the same issues in terms of
15 confirmation of the ultimate use on the receiving end as
16 we've discussed?
17 A. Yes.
18 Q. And again, are you aware of any -- from what you've
19 heard today, anything that you've heard today from
20 anyone who's presented any information, including Life
21 For Relief's witnesses, expert witness, that Life For
22 Relief has in place a policy to address the issue of end
23 use of funds in terms of on a transactional level?
24 A. No.
25 Q. Is there a difference between a fraud investigation and

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1 an AML investigation?
2 A. Yes.
3 Q. What is the difference?
4 A. A couple of things. And again, let's put this from the
5 bank investigative perspective, and that would be that
6 an AML investigator, his responsibility or her
7 responsibility is to identify suspicious activity. A
8 fraud investigator, their responsibility is to identify
9 assets or potential loss or actual loss to the bank and
10 to take steps to recover that or to ensure that the bank
11 doesn't find itself in a loss position.
12 Q. Would it be -- is there a difference between the two
13 kinds of investigations regarding contact with the
14 target of the investigation?
15 A. Yes. I think in my experience, fraud investigators
16 would be more inclined to actually contact the client,
17 because again, to determine what the potential loss
18 situation is -- monetary loss to the bank or exposure to
19 the bank. Importantly, it's what exposure do they have.
20 In the course of that type of investigation, they may be
21 more inclined to speak to the bank and they're not
22 speaking in that context from an AML standpoint about
23 suspicious activity.
24 Q. For the reasons that you've testified?
25 A. Yes.

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1 Q. What kind of investigator was Christa Marshall?
2 A. She was an anti-money-laundering investigator.
3 Q. Are you aware that the bank has separate departments for
4 money-laundering investigations and fraud
5 investigations?
6 A. Yes.
7 Q. Was Christa Marshall in the fraud or AML group?
8 A. AML group.
9 Q. Do you know if Ms. Digsby fell into a particular
10 category?
11 A. She was in a different environment. She was a -- I
12 forget what unit or section she was in, but she was in
13 neither. She was in a position of reviewing and either
14 approving or disapproving the recommendation to close
15 the account.
16 Q. Would she have been as equally subject to the BSA
17 regulations as Ms. Marshall would have been in terms of
18 no contact?
19 A. Yes.
20 MR. AKEEL: Objection; legal conclusion.
21 MR. RODES: I think he's testified to his
22 familiarity with the law.
23 Q. (By Mr. Rodes): Are there any controls that Life For
24 Relief can put in place in the case of bank deposits
25 totaling more than \$10,000 in the same day?

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1 A. Yes.
2 Q. What would that be?
3 A. Either just make one deposit, or if they're breaking the
4 deposits up, that one individual make those deposits and
5 make it known to the point it was made earlier, that the
6 monies are earmarked for different purposes, but there's
7 no reason why you can't just make one deposit and then
8 when the money is there from the accounting standpoint,
9 identify where the money is going.
10 Q. Are you aware if -- whether or not Life For Relief,
11 based on everything you've heard so far, including
12 yesterday's testimony, that Life For Relief has a policy
13 in place regarding how those large deposits are handled?
14 A. No.
15 Q. Do you know if Bank of America -- do you have any reason
16 to believe or any evidence that Bank of America, at the
17 time of the closure, would have been aware of any
18 existing policy at the time regarding the handling of
19 deposits over 10,000?
20 A. No.
21 Q. Would it have been Bank of America's obligation to seek
22 that information out?
23 A. No.
24 Q. You looked at some of these deposit forms that Mr. Akeel
25 showed you, Exhibit 5, which I will show you my version.

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1 I put number "5" in the top right corner; otherwise,
2 it's unadulterated. Looking at this deposit form on the
3 first page here, is there any reason to believe that a
4 donor is prohibited from putting their name on that
5 form?
6 A. No.
7 Q. Are you aware of any sort of bank policy that would
8 prohibit them from doing that?
9 A. No.
10 Q. Would it be a reasonable control for Life For Relief to
11 ask donors to make identified deposits?
12 MR. AKEEL: Objection.
13 MR. RODES: On what basis?
14 MR. AKEEL: Calling for speculation.
15 THE WITNESS: They could, yes.
16 Q. (By Mr. Rodes): In your experience and in terms of what
17 you've heard Mr. Kaszubski testify about in terms of the
18 controls Life For Relief is implementing, do you believe
19 -- in your understanding of the various standards by
20 which Life For Relief has chosen to govern itself, do
21 you believe it would be a reasonable control to ask Life
22 For Relief to ask donors to make identified deposits?
23 A. Yes.
24 Q. Do you believe that -- is it your understanding that
25 Life For Relief is encouraging the use of credit card

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1 donations of its donors?
2 A. Is encouraging it? Well, based on the comment, yes.
3 Q. Based on Mr. Akeel's comment, is it your understanding
4 that Life For Relief is encouraging its donors to donate
5 by credit card?
6 A. Yes.
7 Q. Are credit cards a more identifiable way of making a
8 donation than a cash deposit?
9 A. Yes.
10 Q. Why is that?
11 A. Well, assuming that you've vetted the identity of the
12 credit card and you're comfortable with it, you know who
13 the donor is.
14 Q. Do you have any evidence that Life For Relief was
15 encouraging the use of credit card donations over cash
16 donations at the time the accounts were reviewed and
17 closed?
18 A. No.
19 Q. Similarly to asking donors to make identified deposits,
20 would it be a reasonable control for Life For Relief to
21 encourage its donors to make donations by checks that
22 contain their personal information so as to identify a
23 source?
24 A. Yes.
25 Q. Do you have any evidence or reason to believe that there

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1 was any sort of encouragement of that by Life For Relief
2 at the time the accounts were reviewed and closed?
3 A. No.
4 Q. Is it your understanding that Life For Relief is still
5 implementing and developing source and use policies that
6 were not in place in 2011 and 2012?
7 A. No.
8 Q. Does your understanding come from Mr. Kaszubski's
9 testimony yesterday?
10 A. Yes.
11 Q. Is it your understanding that Mr. Kaszubski was an
12 expert regarding the policies and controls that Life For
13 Relief has implemented internally in terms of the
14 deposit activity and the flow of funds?
15 A. Yes.
16 Q. Would you make any distinction between source of funds
17 and the name of the person who's depositing the funds?
18 A. The name of the person depositing isn't necessarily
19 responsible for the source. That's not necessarily the
20 source to the examples that were used earlier. The name
21 of the person depositing may have been the employee
22 who's collected the cash or whatever and deposited it.
23 Q. Do you have any information or indication or evidence
24 based on what you've heard that Life For Relief has some
25 sort of policy or procedure in place to identify the

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1 actual source of the funds as distinguished from the
2 name of the person depositing them?
3 A. No.
4 Q. Is that something they should have in place in terms of
5 AML compliant policy?
6 A. That would be a good practice.
7 Q. Not required, but good practice?
8 A. Yes.
9 Q. Based on your testimony, is it accurate to say that a
10 proper AML control, policy or procedure would involve a
11 review on the transactional activity level?
12 A. Yes.
13 Q. That would involve looking at specific transactions
14 coming in and out of specific accounts?
15 A. Yes.
16 Q. Would that also involve verification of where those
17 funds originated from and how those funds were
18 ultimately used?
19 A. Yes.
20 Q. From what you understand and everything that you've
21 heard, including testimony of expert Mr. Kaszubski, does
22 Life For Relief have any kind of transactional level
23 approach to anti-money-laundering?
24 A. Not from what I've reviewed.
25 Q. Would that be something that would mitigate risk if they

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1 did have one?
2 A. Yes, it would be helpful.
3 Q. Would that mitigate risk from a bank perspective based
4 on your experience?
5 A. From the bank perspective, yes.
6 Q. Do you have any reason or evidence to believe that Bank
7 of America was aware of any kind of policy at the time
8 the accounts were reviewed and closed?
9 A. No.
10 Q. Did Bank of America have an obligation to seek that out?
11 A. No.
12 Q. Looking at the account closure form, that's Exhibit 4,
13 can you flip to the second page of Exhibit 4? On the
14 bottom is Bates number 36, version three.
15 A. Right.
16 Q. It's a less-redacted version. I'll represent to you
17 it's a less-redacted version of the same document that
18 is the first page of Exhibit 4. There's a box that's
19 checked toward the bottom, and the box states,
20 "Investigation results yield conclusive indications of
21 violations of anti-money-laundering laws and/or Bank
22 Secrecy Act regulations." Do you see that?
23 A. Yes.
24 Q. Does that phrase encompass structuring?
25 MR. AKEEL: Objection; speculation, leading.

39 (Pages 150 to 153)

Dennis Lormel
12/16/2014

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1 Q. (By Mr. Rodes): Based on your experience with the Bank
2 Secrecy Act, with structuring, financial crimes, could
3 that sentence include the activity of structuring?
4 A. Yes, it could be.
5 MR. AKEEL: Objection; speculation, leading.
6 Q. (By Mr. Rodes): Would structuring be a violation of the
7 anti-money-laundering law?
8 A. Yes.
9 Q. Would structuring be a violation of the Bank Secrecy Act
10 regulations?
11 A. Yes.
12 Q. Do you know if -- it is industry standard for an
13 investigator to have to identify or to have to check
14 more than one of these boxes on a form like this that
15 banks use in terms of account closure recommendations?
16 MR. AKEEL: Objection; form, foundation.
17 THE WITNESS: No.
18 Q. (By Mr. Rodes): And regarding the box that is checked,
19 the statement I've read to you and the narrative account
20 that I think has been read into the record previously,
21 can you opine on whether or not that statement and the
22 underlined portion of the checked box would encompass
23 the three above unchecked boxes?
24 MR. AKEEL: Objection; form, foundation,
25 speculation.

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1 THE WITNESS: In my mind it does.
2 Q. (By Mr. Rodes): In your experience in financial crimes
3 and consulting, in terms of investigations of what bank
4 investigators look at, could you testify that the
5 statement in the checked box would encompass the three
6 unchecked boxes?
7 MR. AKEEL: Objection; form, leading,
8 foundation.
9 THE WITNESS: Yes.
10 MR. AKEEL: And speculation.
11 Q. (By Mr. Rodes): In looking at your report -- back to
12 Exhibit 1, page 13, in the middle paragraph a few
13 sentences down, there's a sentence that starts with,
14 "The problem with this pattern of transactional
15 activity." Do you see that?
16 A. You said 13?
17 Q. Yes, page 13.
18 A. Yes.
19 Q. Okay. The next sentence starts with, "What LFRD did was
20 a form of commingling funds."
21 A. Right.
22 Q. I believe that based on a series of questions that
23 Mr. Akeel asked you that you testified to the extent
24 that commingling wouldn't be the proper word in that
25 sentence?

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1 A. Right.
2 Q. What word -- is there a word to put in there?
3 A. Yeah. I would change that entire sentence under the
4 circumstances with "commingling" out. It's just trying
5 to drive back the point that there's a lack of
6 transactional transparency.
7 Q. What led to the lack of transparency, in your opinion?
8 A. Well, just from the standpoint of the one bank account,
9 the fact that there's a check for \$100,000, that's all
10 that the Bank of America investigator is going to see;
11 in this case, Ms. Marshall, that that check sat there in
12 that account that was earmarked for charitable purposes.
13 Bank of America would not know that that money was
14 actually going to a charitable purpose from another
15 account.
16 Q. In connection with an AML investigation, is it
17 appropriate in your opinion for Ms. Marshall to not have
18 reached out to confirm why that check was deposited in
19 that operational account?
20 A. Yes.
21 MR. AKEEL: Objection; asked and answered.
22 Q. (By Mr. Rodes): On page 16 of your report, the third
23 full paragraph down.
24 A. Okay.
25 Q. The third full paragraph down, starting with the

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1 "Fragmented nature."
2 A. Okay.
3 Q. The next sentence, "This risk is compounded by the
4 nominal nature of the BoA accounts and the fact it is
5 not consistent with activities conducted by charities."
6 I think that you testified in response to questions by
7 Mr. Akeel about knowledge regarding charities generally.
8 Is that what you meant in this sentence?
9 A. Yes.
10 Q. What did you mean by not consistent with activities
11 conducted by charities?
12 A. What you would expect was the account activity --
13 consistent with what you would expect for that type of a
14 business; in this case, the charity.
15 Q. Is there anything that you've heard today, yesterday or
16 anything that's come to your attention since the
17 preparation of your report in this matter that would
18 lead you to change your opinion that proper standards
19 were followed in connection with the closure and review
20 of the Life For Relief accounts at Bank of America?
21 A. No.
22 Q. And is there anything that would lead you to change your
23 opinion that the review was proper under industry and
24 AML guidelines?
25 A. No.

40 (Pages 154 to 157)

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1 Q. In any of your work as an expert or consultant, has
2 there ever been any finding or conclusion that you were
3 biased against Arab-Americans or people of Middle
4 Eastern or Arabic descent?
5 A. No.
6 Q. Have allegations of this kind of ethnic bias been levied
7 against you in any context other than today?
8 A. No.
9 Q. Were you hired by Bank of America to suss out whether or
10 not there was illegal activity being conducted by Life
11 For Relief?
12 A. No.
13 Q. Has anyone in my firm or associated with our side of the
14 case ever asked you if Life For Relief engaged in
15 criminal activity?
16 A. No.
17 Q. Do you recall Mr. Kaszubski testifying yesterday that
18 Life For Relief is in the process of implementing
19 additional controls regarding the use of funds?
20 A. Yes.
21 Q. Do you recall -- I was pointing to Exhibit 11, the last
22 bullet point there. So above the last bullet point you
23 see there is a statement that says, "The new risk area
24 assessments were incorporated into the 2013 overall plan
25 and will continue to be enhanced throughout 2014.

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1 Specific 2014 enhancement plans include," and there's a
2 bullet point there, "Source and use of fund policy
3 revision to incorporate third-party flow-through on use
4 of funds and durable goods. The enhancement will
5 provide a basic layer of testing to ensure the third
6 party is properly maintaining the use of funds according
7 to their mission goal and commitment to Life For Relief
8 & Development." Do you see that?
9 A. Yes.
10 Q. Is it your understanding that Life For Relief does not
11 yet have such a policy in place?
12 A. Yes.
13 Q. Is it your understanding based on Mr. Kaszubski's
14 testimony and all of the evidence that's been presented
15 to you that Life For Relief did not have this kind of
16 policy when the accounts were reviewed and closed?
17 MR. AKEEL: Objection; leading, the last two
18 questions.
19 THE WITNESS: Yes.
20 Q. (By Mr. Rodes): Do you have any evidence that Bank of
21 America would have been aware of the existence of any
22 kind of policy if it did exist in the time that the
23 accounts were reviewed and closed?
24 A. No.
25 Q. Would Bank of America have been under a legal obligation

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1 or some other obligation to seek that information out?
2 A. No.
3 MR. AKEEL: Objection; form, foundation.
4 Q. (By Mr. Rodes): Is this the kind of policy, this
5 enhancement that we're referring to, is this the kind of
6 policy that would give you some -- would alleviate some
7 of your concerns regarding risk in terms of confirming
8 use of funds?
9 A. Yes.
10 Q. Does the implementation of this enhancement today, in
11 your opinion, have any bearing upon the closure of the
12 accounts in 2012?
13 A. No.
14 Q. You testified -- Mr. Akeel gave you a several-layer
15 hypothetical today regarding various policies and
16 controls that Life For Relief could have in place in
17 order to alleviate your concerns regarding the controls
18 and money-laundering; is that accurate?
19 A. Yes.
20 Q. Let's take the hypothetical and let's make an additional
21 layer on it and say that these were in place in 2012
22 when the accounts were closed, okay? Do you know
23 whether or not the bank would have seen these policies?
24 A. No.
25 Q. Do you have any evidence that Life For Relief had

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1 provided any kind of policies in existence at the time
2 to Bank of America?
3 A. No.
4 Q. Would Bank of America have been obligated to seek out
5 those policies in connection with this AML review in
6 2012?
7 A. No.
8 Q. Is it accurate -- would it be accurate to say that even
9 if all of these policies that they've been working to
10 put in place were firmly in place at the time the
11 accounts were reviewed and closed, that it would not
12 have altered how the transactional activity would have
13 shown up when Ms. Marshall did her account review?
14 MR. AKEEL: Objection; form, foundation.
15 THE WITNESS: Yes.
16 Q. (By Mr. Rodes): Do any of the policies that Life For
17 Relief has either implemented or planning on
18 implementing, do any of those policies or procedures,
19 would they alter the transactional activity that would
20 come through the bank accounts at Bank of America were
21 they still to be open?
22 A. No.
23 Q. In that sense, do the policies not alleviate your
24 concerns from an AML transactional perspective?
25 A. No.

41 (Pages 158 to 161)

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1 Q. Is there anything that you testified to today that you
2 would like to clarify or amend?
3 A. No.
4 Q. You will have a chance once the transcript comes back,
5 but for the time being --
6 A. No.
7 MR. RODES: Okay.
8 MR. AKEEL: Just a couple questions.
9 RE-EXAMINATION BY MR. AKEEL:
10 Q. Sir, regarding Exhibit 4, would you expect the Bank of
11 America employees to comply with Federal law and to
12 complete the form properly?
13 MR. RODES: Objection; lacks foundation.
14 Q. (By Mr. Akeel): The closure report right here?
15 A. Yes.
16 Q. Would you expect that they would file the proper SAR
17 report if needed?
18 MR. RODES: Objection to the extent the
19 question calls for whether or not a SAR was filed under
20 the Bank Secrecy Act. It cannot be disclosed if one was
21 filed or not, and by making this objection I'm not
22 indicating that one has been filed or has not been
23 filed.
24 THE WITNESS: Could you repeat that?
25 Q. (By Mr. Akeel): Sure. Would you expect the Bank of

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1 America employees to follow Federal law with respect to
2 filing a SAR report if needed, generally?
3 A. Yes.
4 Q. In preparing this closure report, would you expect
5 Ms. Marshall to put accurate representations on the
6 form? Would you expect that?
7 A. Yes.
8 Q. Would you expect her to be honest with respect to her
9 reasons why the account should be closed?
10 A. Yes.
11 Q. Would you expect her to have filled out the form
12 properly to justify the decision to close it?
13 A. Yes, and --
14 Q. I'm just asking.
15 A. Yes. And as I started to say earlier and I was
16 searching for it, Mr. Rodes pointed out that last bullet
17 where she checks the boxes really all-encompassing.
18 Could she have identified structuring? Yes.
19 Q. I understand, but you're going into her state of mind on
20 what she thought, correct? You weren't there to
21 consult?
22 A. I'm going based on her deposition.
23 Q. I understand, but you weren't there at the time when she
24 completed the form, right?
25 A. You're right.

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1 Q. She didn't fill out the box "structuring," correct?
2 A. Correct.
3 Q. It's very specific, to the point, right?
4 A. Yes.
5 Q. In the banking industry, everybody knows what structured
6 transactions mean, right?
7 A. Supposedly, yes.
8 Q. In fact, there's a separate box from the other boxes,
9 correct?
10 A. Yes.
11 Q. Let's go to that last page, please, additional Bank of
12 America accounts. Do you recall you testified earlier
13 about that Life For Relief is a high-risk factor because
14 of where it provides humanitarian aid?
15 A. Yes.
16 Q. Do you see the box where -- the second from the last
17 box, it says, "Customer has been identified or
18 associated with a government-acknowledged high-risk
19 area/entity/country"? Do you see that?
20 A. Yes.
21 Q. That's not been boxed, is it?
22 A. It hasn't been checked.
23 Q. It hasn't been checked, correct?
24 A. Yes, correct.
25 Q. Based on what you see here in this closure report, Bank

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1 of America did not consider Life For Relief &
2 Development -- it was not identified as a government-
3 acknowledged high-risk area or entity, correct?
4 MR. RODES: Objection; calls for speculation,
5 lacks foundation, lacks personal knowledge, to the
6 extent that your question asked whether or not they
7 considered. You also said identified. I'm objecting to
8 the part where you said "considered."
9 Q. (By Mr. Akeel): Do you agree?
10 A. Yes.
11 MR. RODES: To which part of the question?
12 Objection; compound.
13 Q. (By Mr. Akeel): Regarding Bank of America's duty to
14 contact the customer, you read Ms. Digsby's deposition
15 where she said at times from the AML unit she contacted
16 customers?
17 A. Right.
18 Q. Last question. You indicated that it's your
19 understanding that if there was a transactional level
20 money-laundering control, you would have been more
21 comfortable. Can you identify as you sit here today a
22 transactional level money-laundering control that's not
23 in place at Life?
24 MR. RODES: Objection. You're asking him to
25 prove a negative.

42 (Pages 162 to 165)

Dennis Lormel
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1 THE WITNESS: I can't say.
2 MR. RODES: And objection, facts not in
3 evidence in terms of some policies not being in place
4 yet.
5 MR. AKEEL: I'm done.
6 MR. RODES: One question.
7 RE-EXAMINATION BY MR. RODES:
8 Q. In the closure form and all the different versions
9 you've seen, based on everything you know sitting here
10 today, is there anything on that form that is
11 inaccurate, to your knowledge?
12 A. No.
13 Q. Anything that's false?
14 A. No.
15 MR. RODES: Okay.
16 MR. AKEEL: We're done.
17 (Deposition concluded at 3:24 p.m.)
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1 J U R A T
2
3
4 I, DENNIS LORMEL, do hereby attest to the
5 correctness of the transcript upon inclusion of the
6 corrections and/or changes I have listed on the attached
7 errata sheet.
8
9
10
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12 _____
13 Dennis Lormel
14 Subscribed and sworn to before me
15 this ____ day of _____, 2015
16
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18 _____
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20 Notary Public, _____ County
21 My Commission expires: _____
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1 E R R A T A S H E E T
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1 STATE OF MICHIGAN)
2)
3 COUNTY OF OAKLAND)
4
5 I, MARY OPPENHEIM, a Notary Public within and
6 for the County of Oakland, State of Michigan, do hereby
7 certify that the witness whose attached deposition was taken
8 before me in the above-entitled matter was by me duly sworn
9 at the aforementioned time and place; that the testimony
10 given by said witness was stenographically recorded in the
11 presence of said witness and afterwards transcribed upon a
12 computer under my personal supervision, and that the said
13 deposition is a full, true, and correct transcript of the
14 testimony given by the witness.
15 I further certify that I am not connected by
16 blood or marriage with any of the parties or their attorneys
17 and that I am not an employee of either of them, nor
18 financially interested in the action.
19
20
21 
22 Mary Oppenheim, CSR 5186
23 Notary Public, Oakland County, Michigan
24 Acting in the County of Wayne
25 My Commission expires: October 23, 2017



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